

COPIES

Lots 2-6 of Division A shall be delineated as Native Growth Protection Areas and shall have the same clearing restrictions as shown on Condition #d. In addition, building setbacks for these lots will be restricted in accordance with the Geotechnical Assessment Soils Reports prepared by Rittenhausen-Zaman and Associates, Inc., for Harbour Points Sectors 12 and 17 dated February 24, 1988, and February 9, 1988. A note to this effect shall be placed on the face of the final plat.

i. Minimum 30 foot deep buffers on the rear of Lots 9-13 of Division E shall be depicted on the face of the final plat map along with restrictive language prohibiting site disturbance other than minimal selective tree thinning.

j. The applicant shall comply with all NPDES (National Pollutant Discharge Elimination System) permit requirements as regulated through the Washington State Department of Ecology.

k. The geotechnical report for the lots to be developed under the PPM indicate the lots to be developable sites for single family residences, provided the precautions listed are implemented. All lots developed under the Professional Planning Method shall follow the recommendations of the soils reports prepared by Terra and Associates, Inc. Deviations from the approved soils reports shall be accompanied by new soils reports and site plans prepared in

HEARING EXAMINER RECOMMENDATION  
LOZNER HOMES 2/11/94  
Page 18

accordance with the PPM standards listed in Snohomish County Code. The following lots shall be required to use the PPM: Lots 8-13, Division E; Lots 1-6, 10, and 17, Division C; Lots 40-45, Division D.

29. No burning shall be permitted. Effective September 1, 1992, residential yard waste fires and land clearing fires are banned within the City of Mukilteo.

30. A deposit shall be required for the final plat processing per Resolution 89-19 for legal/consultant fees incurred by the City in processing applications. Direct costs for larger projects vary, therefore the City Attorney shall provide an estimate for the review of the project. The applicant shall provide a deposit to the Community Development Department and as provided in Resolution 89-19 (See Attached Copy). The City shall refund any unused monies at the time of recording.

31. A deposit shall be required for the final plat processing in accordance with the current fee resolution for the Hearing Examiner's review of the final plat (See deposit schedule attachment as part of City's most current fee resolution). In cases where the specific application fee does not recover all outside costs attributable to the Hearing Examiner's services, the difference shall be identified by City staff and paid by the applicant to the Community Development Department. The City shall refund any unused monies at the time of recording.

32. The applicant shall have a licensed Civil Engineer

9503170285

057

VOL. 3011 PAGE 1141

prepare and/or supervise the preparation of as-built civil drawing to be reviewed, approved and signed by the City Engineer upon satisfactory installation of the required public street and utility improvements. One reproducible and 3 signed blue-line drawings shall be submitted prior to final approval of the proposed project.

33. The applicant shall apply to the Snohomish County Auditor at 3000 Rockefeller Avenue, Everett, WA 98201-4060 for a plat name Reservation Certificate and furnish the City with a copy of the approved Reservation Certificate at the time of final plat submittal.

34. An underground tunnel or bridge shall be constructed (as an at-grade crossing shall not be permitted) to accommodate golfers and their carts crossing Club House Lane between the 14th and 15th fairways, unless the developer can demonstrate to the Planning Department and the Public Works Director that adequate site distance can be obtained in the plat design for an at-grade crossing at that location.

35. At-grade crossing shall be permitted on 128th Street SW (between Fairways No. 15 and 16).

36. Plans for construction of all golf course crossings shall be subject to submittal to and approval by the Public Works Director during construction plan approval and prior to the initiation of road construction.

37. Tract 996, in Division E, as depicted on the

preliminary plat map, shall be designated as only for emergency vehicle access and pedestrian traffic. Ownership and maintenance of this tract shall be by the Sector 17 Homeowner's Association. The tract shall contain, at the western end, a normally locked vehicle gate to be opened only by emergency or emergency training crews. The Mukilteo Fire Department may advise the Mukilteo Department of Public Works as to any design requirements they may feel appropriate for the driving surface and locked vehicle gate. Also to be located at the western end of the tract, is to be an open pedestrian gate primarily intended for the potential passage of school children. Mukilteo School District No. 6 may advise the Mukilteo Department of Public Works as to any special design requirements they may feel appropriate for the permanently open pedestrian gate. Sole approval authority for these gates shall reside with the Mukilteo Department of Public Works. A note shall be placed on the final plat containing this tract designating it as "Tract 996, subject to a non-exclusive easement for emergency vehicle access and pedestrian access, in Division E."

38. No permitted access from any lot in this subdivision shall be permitted to 64th Avenue West. All lots shall take vehicular access from interior plat roads. A note to this effect shall be placed on the final plat.

39. Surface water run-off from streets shall be collected by the storm drainage system and directed to the existing storm

9503170235

059

VOL. 3011 PAGE 1143

water retention/detention facilities located in Sectors 12 and 17. Surface water run-off from driveways and roofs, where feasible, shall be collected by the storm drainage system and directed to the existing storm water retention/detention facilities located in Sectors 12 and 17. A note to this effect shall be placed on the final plat.

40. All construction activity shall be limited to those working hours per the City of Mukilteo Codes (7:00 a.m. - 10 p.m., weekdays and 8:00 a.m. - 10:00 p.m., weekends).

41. In accordance with SCC Title 13, Roads and Bridges, the Director of Public Works shall reserve the right to require the applicant to provide a maintenance bond, if he concludes that there may be damage done to the right-of-way, in this case, 64th Avenue West (Snohomish County). Said deposit shall represent an amount determined to be necessary to adequately protect such right-of-way, to cover the costs of restoration and repair of such anticipated damages and also approved by the Director of Snohomish County Public Works Department. In doing so, the Public Works Director or his designee shall, prior to the commencement of any construction activities, photograph the roadway conditions in order to establish a photographic catalogue of the pre-existing conditions.

42. Access to Divisions A, B, C, D and E in Sector 17 from 64th Avenue West is not anticipated for purposes of plat and home

9503170235

060

VOL. 3011 PAGE 1144

construction, but will be permitted for the limited purposes of hauling of equipment and materials, if no other reasonable access is available. Upon completion of plat and home construction, there shall be no vehicular access to any divisions of the plat from 64th Avenue West, except for the following limited purposes:

- a. Emergency access as provided in Condition 37, above; and
- b. Temporary access for purposes of maintaining a storm water detention vault, which temporary access shall terminate upon approval and recording of the final plat for Division D, Sector 17.

43. Temporary access from 64th Avenue West will be permitted for purposes of construction of sanitary sewer and storm water sewer systems that serve the plat and that are located near or on proposed Tract 997 in Division D, County or City park land or Sector 21. To the maximum extent feasible, this construction access shall be utilized only during the major construction period, consisting of a continuous 60 to 90 day period occurring between April 1 and November 1 of the year in which the construction occurs. Access will be permitted at other times, before and after the major construction period, to the extent reasonably necessary to prepare, maintain, inspect or repair the installations.

44. Lozier Homes Corporation shall institute a series of measures designed to minimize aesthetic impacts between the

9503170235

081

VOL. 3011 PAGE 1145

WindandTide and One Club House Lane subdivisions, as described in the following three sub-conditions.

- a. Loxier Homes Corporation shall construct a wooden fence, 6 feet in height, along those rear lot lines of One Club House Lane bordering 64th Avenue West, including those lots (15-19, Division E) abutting Tract 998, to be completed no later than the date of construction for all homes in Division D and E, Sector 17, is completed. The fence shall be maintained by individual lot owners pursuant to standards established by the homeowners' association and the applicable Covenants, Conditions and Restrictions of One Club House Lane.
- b. Loxier Homes Corporation, as the Declarant, shall amend the Architectural Guidelines of the One Club House Lane Covenants, Conditions and Restrictions, to require a rear yard setback for home construction unless an exception is granted by the Architectural Control Committee due to lot configuration making the setback impracticable or unless prohibited by code. The setback shall measure an average of 15 feet from the Easterly right-of-way of 64th Avenue West. The setback requirement shall apply to all lots immediately adjacent to and bordering 64th Avenue West, but shall not apply to Lots 15, 16, 17, and 19 of Division E.
- c. Loxier Homes Corporation shall make reasonable efforts to preserve existing healthy conifer trees of at least 3 inches

9503170235

062

VOL. 3011 PAGE 1146

in diameter at breast height that are located within 10 feet of the Easterly right-of-way line of 64th Avenue West ("ten foot tree buffer"). In doing so, Lozier Homes Corporation is not required to exceed the "four tree per lot" standard described below. The ten foot tree buffer shall not apply to lots that are not directly adjacent to the Easterly right-of-way of 64th Avenue West. This condition shall not prevent the removal of shrubs and vegetation or deciduous trees. This condition shall not prevent the removal of any trees reasonably necessary for clearing or grading associated with fence construction, surface runoff control, lot contouring or utility construction. In any event, Lozier Homes Corporation will ensure that, upon completion of construction, each lot shall contain four conifer trees, either through preservation of existing trees, planting of new trees or a combination of both preservation and planting. Lozier Homes Corporation shall make reasonable efforts to locate these four trees within the ten foot buffer area described above.

45. Tract 998 (Within Division E), as depicted on the preliminary plat map, shall be designated as a private road for use by Lots 40 and 41 of WindandTide. There shall be no access, vehicular or otherwise, from Lots 15-19, Division E, of the proposed plat. The following note shall be placed on the final plat: "Tract 998, Division E, Private Ownership, shall be

9503170235

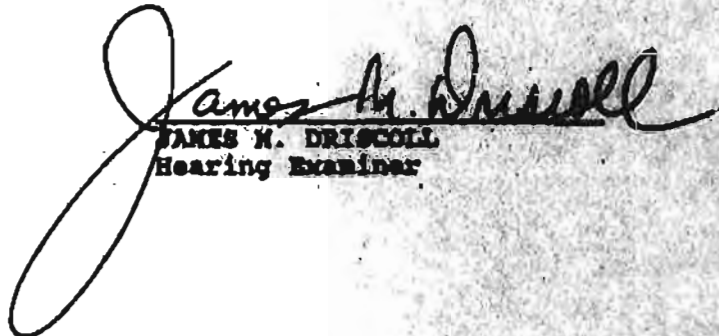
063

VOL. 3011 PAGE 1147



conveyed by quit claim deed to the owners of lots 40 and 41 of WindandTide after the recording of Division E. This tract shall be for the exclusive use of ingress, egress and utilities serving said lots 40 and 41. No access from any Division E lots shall be allowed. If the quit claim deed is not accepted by the owners of lots 40 and 41, the tract shall remain in the ownership of other Sector 17 Homeowner's Association, who may convey ownership to the abutting Sector 17 lots.

DATED this 11 day of February, 1994.

  
JAMES M. DRISCOLL  
Hearing Examiner

9508170235

064

VOL 3011 PAGE 1148

After recording please return to:  
COD Administrator  
City of Mukilteo  
4480 Chennault Beach Road  
Mukilteo, WA 98275

**COPY**

68-

**SUPPLEMENTARY DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
ONE CLUB HOUSE LANE SOUTH  
DIVISIONS 7 AND 8**

908 TERMINAL BLVD SE SUITE 100  
SNOHOMISH COUNTY, WA 98290

95 MAR 17 11:44

RECORDED

9503170236

THIS SUPPLEMENTARY DECLARATION is made this 6<sup>th</sup> day of March, 1995, by LOZIER HOMES CORPORATION, a Washington corporation ("Declarant").

A. Declarant is the owner and developer of that certain real property situated in the City of Mukilteo, Snohomish County, Washington, commonly known as One Club House Lane, Divisions 7 and 8, which real property is more particularly described on Exhibit A, attached hereto and incorporated herein by this reference. Declarant is also the Declarant in that certain Declaration of Covenants, Conditions and Restrictions for the adjacent property known as One Club House Lane South, as recorded under Snohomish County Auditor's No. 9301250639 ("Declaration").

B. Pursuant to Section 9.1 of the Declaration, Declarant as the owner of One Club House Lane, Divisions 7 and 8, has the unilateral right to subject such property to the provisions of the Declaration and the jurisdiction of the Association, as defined therein, by recording a Supplementary Declaration describing such property. Pursuant to such Section 9.1, Declarant may unilaterally amend the Declaration as it applies to the property being annexed, in order to reflect the different character of such property.

C. In order to comply with certain provisions of preliminary plat approval of One Club House Lane Divisions A-E (Sector 17, Harbour Pointe) imposed by the City of Mukilteo, as such conditions have been construed by the City, Declarant desires to amend the Declaration, as the Declaration applies to One Club House Lane, Divisions 7 and 8, as requested by the City and as set forth herein.

NOW, THEREFORE, in accordance with the Declaration, Declarant hereby covenants and declares that One Club House Lane, Divisions 7 and 8, as described on Exhibit A, is hereby subjected to all of the covenants, conditions and restrictions of the Declaration and to the jurisdiction of the Association as defined therein; provided, however, that as applied only to One Club House Lane, Divisions 7 and 8, the Declaration is hereby amended as follows:

001

1. Amendment of Definitions. Article 1, Section 1.1, of the Declaration is hereby amended by the addition of a new subsection 1.1.19, as follows:

1.1.19 "City" means the City of Mukilteo, a municipal corporation organized and existing under the laws of the State of Washington, acting by and through its duly authorized officials, employees, agents, contractors, and subcontractors.

2. Amendment of Maintenance Provisions. Article 5 of the Declaration is hereby amended by the addition of a new Section 5.8, as follows:

5.8 Determination of Need for Maintenance or Repair. The City shall have the right, but not the obligation, to inspect, determine the need to maintain or repair, or require the Association to maintain or repair, any of the landscaping, utilities, private roadways, or other facilities that are Common Property within One Club House Lane, Divisions 7 and 8, when the City determines in its reasonable discretion that the same is necessary in the interest of public health and safety. Declarant, each Owner, and the Association, understand and agree that the City has no obligation to inspect, determine the need to maintain or repair, or require the Association to maintain or repair any such items, and that the City's failure to do so does not create any liability on the City's part or relieve Declarant, any Owner, or the Association, of their respective obligations for maintenance and repair under this Declaration.

3. Amendment of Easement for Entry. Article 11, Section 11.3, of the Declaration is hereby amended by the addition of the following at the end of Section 11.3:

In addition to the Board's right of entry as provided in this Section 11.3, the City shall have the right, but not the obligation, to enter upon any property within One Club House Lane, Divisions 7 and 8, in emergency situations, in order to make necessary repairs to storm drainage improvements.

9508170286

002

4. Amendment of Enforcement Provisions. Article 12, Section 12.1, of the Declaration is hereby amended by the addition of the following at the end of Section 12.1:

The City is expressly intended to be a beneficiary of the provisions of Article 5, Section 6.32, and Sections 11.2, 11.3, and 11.4 of this Declaration. The City shall have the right, but not the obligation, to enforce any and all of such provisions as applied to One Club House Lane, Divisions 7 and 8, should the City determine in its reasonable discretion that such enforcement is necessary to protect the public health, safety, or welfare, or to ensure that conditions of plat approval remain in full force and effect in One Club House Lane, Divisions 7 and 8.

5. Amendment of Provision on Amendments. Article 12, Section 12.4, of the Declaration is hereby amended by the addition of the following subsection 12.4.3:

The provisions of Article 5, Section 6.32, and Sections 11.2, 11.3, and 11.4 of this Declaration are expressly intended to benefit the City. Those provisions are imposed by Declarant in order to comply with conditions imposed by the City on the Plat of One Club House Lane Divisions A-E (Sector 17, Harbour Pointe), to which this Declaration applies. As applied to One Club House Lane, Divisions 7 and 8, neither this subsection 12.4.3, nor Article 5 or Sections 6.32, 11.2, 11.3 or 11.4, may be amended or revoked without the express written consent of the City.

6. Remainder of Declaration Applies. Except as specifically modified herein, all remaining terms, conditions, and provisions of the Declaration shall apply to One Club House Lane, Divisions 7 and 8, as the same are set forth in the Declaration, or as the same may hereafter be amended.

EXECUTED the day and year first above written.

DECLARANT:

LOZIER HOMES CORPORATION, a  
Washington corporation

By

Its

  
Michael D. Levy  
Vice President

9503170236

003

SUBSCRIBED AND SWORN to before me this 24 day of March, 1995.

Lee Ann Schermmeron  
Printed Name Lee Ann Schermmeron

NOTARY PUBLIC in and for the State of

Washington, residing at Krust

My Commission Expires 3-22-96



9508170236

004

**EXHIBIT A**

**PROPERTY SUBJECTED TO THE DECLARATION  
BY  
THIS SUPPLEMENTARY DECLARATION**

THOSE PORTIONS OF SECTIONS 28 AND 29, TOWNSHIP 28 NORTH, RANGE 4  
EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, MORE PARTICULARLY  
DESCRIBED AS FOLLOWS:

ONE CLUB HOUSE LANE DIVISION 7, AS RECORDED UNDER  
RECORDING NO. 9503175003, VOLUME 58 OF PLATS,  
PAGES 223-225, RECORDS OF SNOHOMISH COUNTY,  
WASHINGTON.

ONE CLUB HOUSE LANE DIVISION 8, AS RECORDED UNDER  
RECORDING NO. 9503175004, VOLUME 58 OF PLATS,  
PAGES 226-229, RECORDS OF SNOHOMISH COUNTY,  
WASHINGTON.

**9503170236**

**005**

**FINDINGS AND RECOMMENDATIONS OF THE  
HEARING EXAMINER OF THE  
CITY OF MUKILTEO**

**In the matter of the Final Review of the  
Plat of ONE CLUB HOUSE LANE, DIVISION 8  
for APPROVAL OF A FINAL PLAT**

**Recommendation: The final plat of One Club House Lane, Division 8, should be granted.**

**INTRODUCTION**

The preliminary plat of One Club House Lane was approved by the City of Mukilteo City Council in the Spring of 1994. (Approval was made pursuant to the Hearing Examiner's Recommendations of February 11, 1994.) The applicant has proceeded with the development pursuant to the approved preliminary plat and now requests final plat review.

A hearing on the request was held before the Hearing Examiner of the City of Mukilteo on February 14, 1995.

At the hearing, the following presented testimony and evidence:

**PAUL SCHAEFER**  
Planning Department  
City of Mukilteo  
Mukilteo, WA 98275

**JOE ARMOS**  
14407 NE 12th Place  
Bellevue, WA 98007

**DON MILLER**  
8888 - 45th Place West  
Mukilteo, WA 98275

At the hearing the following Exhibits were submitted and were admitted as part of the official record of this proceeding:

- Exhibit 1: Memorandum dated February 2, 1995
- 2: Reduced copy and full size copy of the final plat map
- 3: Vicinity map
- 4: Hearing Examiner's Decision

**9503170236**

**006**

**VOL. 3011 PAGE 1164**

**HEARING EXAMINER RECOMMENDATION**

**One Club House Lane, Division 8**

**Page 2**

- 5: Letter from Alderwood Water District
- 6: Memorandum from Engineering
- 7: City Attorney letter (2/1/95)
8. Letter from City Attorney re Declaration of Covenants, conditions and restrictions (prepared and delivered subsequent to hearing and at request of city and applicant)

After due consideration of the evidence presented by the Applicant, and evidence elicited during the public hearing, the following Findings of Fact and Conclusions constitute the basis of the decision of the Hearing Examiner.

**FINDINGS OF FACT**

1. The City of Mukilteo approved the preliminary plat for the One Club House Lane, Division 8, also known as Division "B", a portion of Sector 17, Division A-E (Harbour Pointe), Mukilteo, Washington.
2. The Mukilteo Municipal Code (MMC) 16.12.010 (D) requires final plat review. The Mukilteo Subdivision Code sets forth that the final plat must conform to the terms of the preliminary plat approval, the requirements of the Subdivision Code, and the approval of the City Council.
3. Preliminary and secondary vehicular accesses have been provided pursuant to the plans that have been approved as part of the preliminary plat. The exact detail of the access points that have been developed are set forth in the Staff Report (page 1).
4. Storm drainage improvements, curbing and paving have been installed.
5. All sidewalks are to be developed pursuant to a performance bond with a date certain of June 30, 1995 for completion. The applicant has submitted a performance bond in the amount of \$60,932.
6. The applicant has executed a construction contract with the Snohomish PUD for plat utility installation, including electrical power and street lighting.
7. All street lighting plans have been approved by the City and the construction of street lighting improvements is complete. There will be no traffic signals required.
8. A maintenance surety bond for plat improvements of \$26,187.00 has been secured.

9503170236

007

VOL. 3011 PAGE 1155



**HEARING EXAMINER RECOMMENDATION**

**One Club House Lane, Division 8**

**Page 3**

9. The required storm drainage improvements have been partially installed and adequate provisions have been made for surface water runoff. The remainder of Division 8 will utilize the Sector 12 detention pond. The subdivision will utilize the Sector 17 detention vault, which was constructed as part of Sector 17, Division 1 plat improvements.

10. The storm drainage system will accommodate a 100 year storm and release the water at a rate not to exceed the 10 year storm. It is tightlined through the Snohomish County Parkland and into the Picnic Point Creek and Hulk Creek.

11. Utility easements are reserved for and granted to all utilities serving the plat. The easements are located under and upon the exterior 10-foot parallel with the adjoining street frontage for all lots. Water and sewer systems have been installed and tested. Final approval must be obtained.

12. Adequate vegetation has been retained onsite.

13. The applicant and the City have entered into an agreement with regard to mitigation requirements and mitigation fees relating to schools and for parks (\$46,389.00 to go toward parks mitigation). In addition, the applicant has prepared an Open Space and Recreation Plan consisting of two Open Space and Recreation Tracts that service the entire Sector 17 development. The Open Space and Recreation Tracts are located in Divisions 7 "A" and 7 "D". The project is exempt from road mitigation.

14. The applicant and the City have entered into an agreement with regard to declaration of covenants, conditions and restrictions. Included in this agreement are obligations of maintenance. The agreement should be part of the final plat.

15. The preliminary plat agreement should be part of the final plat.

16. The preliminary plat conditions of approval have been satisfied with the exceptions of Conditions 28 (a) and (b) and Condition 6. These will be satisfied at time of plat approval or in a timely manner acceptable to the City.

17. None of the lots contained in Division 8 is subject to professional planning methods review.

18. The final plat has been recommended for approval by the City.

**CONCLUSIONS**

1. The applicant has requested approval of a final plat review of the plat of One Club

9503170236

008

VOL. 3011 PAGE 1156

RECORDER-DOB TITILLER, COUNTY AUDITOR

**HEARING EXAMINER RECOMMENDATION**

One Club House Lane, Division 8

Page 4

House Lane, Division 8, also known as Division "B", a portion of Sector 17, Division A-E (Harbour Pointe), Mukilteo, Washington.

2. The final plat review has been conducted pursuant to the Mukilteo Municipal Code and the appropriate sections of a final plat review process.
3. As part of the final plat review, the drawings of the proposed final plat, the Hearing Examiner's Decision of February 11, 1994, the Mukilteo Municipal and Zoning Codes, the conditions of approval as determined by the City Council, and the building codes and development standards of the City of Mukilteo have been considered. The proposed final plat satisfies these conditions. The City Attorney has reviewed the agreements.
4. The applicant and the City have reached agreement with regard to mitigation requirements and Declaration of Covenants, Conditions and Restrictions (CCR). These should be part of the final plat review.
5. All improvements required by the conditions of the preliminary plat approval have been installed or bonded as provided by MMC 16.12.010 (E) and (I).
6. The final plat of the plat of One Club House Lane, Division 8 subdivision should be approved pursuant to MMC 16.20.010(D). This approval should be subject to the recommended changes submitted by the staff, including suggested language with regard to CCRs and a revision to Plat Restriction #11(S) as required by the City.

**RECOMMENDATIONS**

Based upon the proceeding Findings of Fact and Conclusions, the testimony and evidence submitted at the public hearing, and upon the impressions of the Hearing Examiner at a site view, it is hereby recommended to the City Council that the final plat review of the plat of One Club House Lane, Division 8, also known as Division "B", a portion of Sector 17, Division A-E (Harbour Pointe), Mukilteo, Washington be approved subject to:

1. The CCRs approved by the City and the applicant's attorney become part of the final plat approval.
2. Plat Restriction #11 to be revised consistent with the City's recommendation, and read as follows:  
The property owners shall permit the City, in emergency situations, although not required, to enter any of the lots in order to make necessary repairs to storm drainage improvements

9508170236

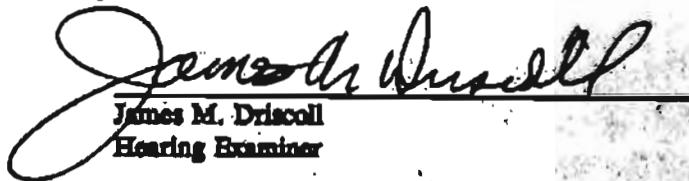
009

VOL. 3011 PAGE 1157

HEARING EXAMINER RECOMMENDATION  
One Club House Lane, Division 8  
Page 5

3. The revised plans as submitted at the public hearing on this review be the controlling plans for the final plat.

Done and dated this 24 day of February, 1995.

  
James M. Driscoll  
Hearing Examiner

9508170286

010

VOL. 3011 PAGE 1158

CHICAGO TITLE INSURANCE COMPANY  
3030 HOYT AVENUE  
EVERETT, WASHINGTON 98201

Order No: 370884

FLAT CERTIFICATE

**RECEIVED**  
OCT 06 1994

Certificate for Filing Proposed Plat:

**CITY OF MOUNTAIN VIEW**

In the matter of the plat submitted for our approval, this Company has examined the records of the County Auditor and County Clerk of **SNOHOMISH** County, Washington, and the records of the Clerk of the United States Courts holding terms in said County, and from such examination hereby certifies that the title to the following described land situated in said **SNOHOMISH** County, to-wit:

SEE SCHEDULE A (NEXT PAGE)

VESTED IN:

LOSIER HOMES CORPORATION, A WASHINGTON CORPORATION

EXCEPTIONS:

SEE SCHEDULE B ATTACHED

CHARGE: \$150.00  
TAX: \$11.85

Records examined to SEPTEMBER 9, 1994 at 8:00 AM

CHICAGO TITLE INSURANCE COMPANY

By *Doris Elwood*

DORIS ELWOOD  
Title Officer  
(206) 250-3683

011

9503170236

VOL. 3011 PAGE 1159

CHICAGO TITLE INSURANCE COMPANY, COUNTY AUDITOR

CHICAGO TITLE INSURANCE COMPANY

Order No.: 370884

FLAT CERTIFICATE  
SCHEDULE A

(Continued)

LEGAL DESCRIPTION

PROPOSED FLAT OF ONE CLUB HOUSE LANE DIV. B:

THIS FLAT OF ONE CLUB HOUSE LANE DIV. B EMBRACES THAT PORTION OF THE WEST HALF OF THE WEST HALF OF SECTION 28, AND OF THE EAST HALF OF THE EAST HALF OF SECTION 29, TOWNSHIP 28 NORTH, RANGE 4 EAST, W.M., IN SPOKANE COUNTY WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 17 IN THE FLAT OF ONE CLUB HOUSE LANE DIV. 2, AS RECORDED IN VOLUME 52 OF PLATS, PAGES 287 THROUGH 289, RECORDS OF SAID COUNTY;

TRENCH NORTH 8°23'09" EAST 294.86 FEET;

TRENCH NORTH 1°53'49" WEST 299.56 FEET;

TRENCH NORTH 27°26'52" WEST 60.00 FEET TO INTERSECT THE ARC OF A CURVE AT A POINT FROM WHICH THE CENTER LIES SOUTH 27°26'52" EAST 287.39 FEET DISTANT;

TRENCH NORTHEASTERLY ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 10°59'52" AN ARC LENGTH OF 55.16 FEET TO A POINT OF TANGENCY;

TRENCH NORTH 73°33'00" EAST 28.52 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET;

TRENCH NORTHEASTERLY AND NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 93°13'00" AN ARC LENGTH OF 40.67 FEET TO A POINT OF TANGENCY;

TRENCH NORTH 19°40'00" WEST 53.08 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 150.00 FEET;

TRENCH NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 7°21'00" AN ARC LENGTH OF 19.24 FEET;

TRENCH NORTH 70°20'00" EAST 327.98 FEET;

TRENCH NORTH 60°14'42" EAST 75.45 FEET;

TRENCH NORTH 53°44'07" EAST 60.97 FEET;

TRENCH SOUTH 41°55'55" EAST 109.21 FEET TO INTERSECT THE ARC OF A CURVE AT A POINT FROM WHICH THE CENTER LIES NORTH 38°09'00" WEST 670.00 FEET DISTANT;

TRENCH NORTHEASTERLY ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 6°30'27" AN ARC LENGTH OF 76.18 FEET TO A POINT OF COMPOUND CURVATURE AND THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET;

TRENCH NORTHERLY AND NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 87°11'01" AN ARC LENGTH OF 38.04 FEET TO A POINT OF TANGENCY;

TRENCH NORTH 41°50'28" WEST 10.69 FEET;

TRENCH NORTH 48°09'32" EAST 50.00 FEET TO INTERSECT THE ARC OF A CURVE AT A POINT FROM WHICH THE CENTER LIES NORTH 48°09'32" EAST 25.00 FEET DISTANT;

TRENCH SOUTHEASTERLY, EASTERLY AND NORTHEASTERLY ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 97°09'32" AN ARC LENGTH OF 42.39 FEET TO A POINT OF TANGENCY;

TRENCH NORTH 41°00'00" EAST 81.30 FEET;

TRENCH SOUTH 47°00'00" EAST 60.04 FEET;

TRENCH NORTH 41°00'00" EAST 72.98 FEET;

TRENCH SOUTH 49°00'00" EAST 86.10 FEET;

SEE NEXT PAGE

012

9503170236

CHICAGO TITLE INSURANCE COMPANY

VOL. 3011 PAGE 1160

**SCHEDULE A**  
(Continued)

**LEGAL DESCRIPTION**

TRENCH SOUTH 38°32'14" WEST 178.00 FEET;  
TRENCH SOUTH 28°39'07" WEST 221.07 FEET;  
TRENCH SOUTH 11°42'27" WEST 423.82 FEET;  
TRENCH SOUTH 9°07'13" WEST 289.83 FEET TO THE NORTHEAST CORNER OF LOT 13 IN SAID  
PLAT OF ONE CLOS MOORE LANE DIV. 2;  
TRENCH ALONG THE NORTH BOUNDARY OF SAID PLAT BY THE FOLLOWING COURSES AND  
DISTANCES;  
SOUTH 87°49'32" WEST 204.80 FEET,  
SOUTH 89°34'58" WEST 85.44 FEET,  
NORTH 88°49'13" WEST 98.02 FEET;  
SOUTH 79°30'56" WEST 81.98 FEET, AND  
SOUTH 88°31'58" WEST 120.86 FEET TO THE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

9508170286

013

CHICAGO TITLE INSURANCE COMPANY

Order No.: 370584

FLAT CERTIFICATE  
SCHEDULE B

---

This certificate does not insure against loss or damage by reason of the following exceptions:

**GENERAL EXCEPTIONS:**

- A. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
- B. Rights or claims of parties in possession not shown by the public records.
- C. Easements, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.
- D. Easements or claims of easements not shown by the public records.
- E. Any lien, or right to lien, for contributions to employee benefit funds, or for state workers' compensation, or for services, labor, or material heretofore or hereafter furnished, all as imposed by law, and not shown by the public records.
- F. Liens under the Workmen's Compensation Act not shown by the public records.
- G. Any service, installation, connection, maintenance or construction charges for sewer, water, electricity or garbage removal.
- H. General taxes not now payable; matters relating to special assessments and special levies, if any, proceeding or in the same becoming a lien.
- I. Reservations or exceptions in patents or in Acts authorizing the issuance thereof; Indian tribal codes or regulations, Indian treaty or aboriginal rights, including easements or equitable servitudes.
- J. Water rights, claims, or title to water.
- K. THIS REPORT IS ISSUED AND ACCEPTED UPON THE UNDERSTANDING THAT THE LIABILITY OF THE COMPANY SHALL NOT EXCEED ONE THOUSAND DOLLARS (\$1000.00).

9503170236

014

CHICAGO TITLE INSURANCE COMPANY

PLAT CERTIFICATE  
SCHEDULE B

Order No: 370594

(Continued)

EXCEPTIONS

1. NO SEARCH HAS BEEN MADE AS TO GENERAL TAXES AND ASSESSMENTS. TAXES AND ASSESSMENTS WILL BE SEARCHED UPON REQUEST.

2. AGREEMENT AND THE TERMS AND CONDITIONS THEREOF:

BETWEEN: BCE DEVELOPMENT, INC.  
AND: SNOWBUSH COUNTY, A MUNICIPAL CORPORATION  
RECORDED: SEPTEMBER 2, 1988  
RECORDING NUMBER: 8809020118  
REGARDING: ROAD AGREEMENT - COPY ATTACHED

3. PROVISIONS OF "POSSESSION SHARES AGREEMENT" AND "CHEVRON AGREEMENT" RECORDED UNDER ADDITOR'S FILE NUMBERS 7808310138 AND 7808310140 RESPECTIVELY.

4. CONCOMITANT AGREEMENT RECORDED UNDER ADDITOR'S FILE NUMBER 9204160131 AND AMENDED BY DOCUMENT RECORDED UNDER ADDITOR'S FILE NUMBER 9106016018.

5. RESERVATIONS CONTAINED IN DEED:

RECORDING NUMBER: 7811300199  
AS FOLLOWS:

EXCEPTING AND RESERVING TO GRANTOR, ITS SUCCESSORS AND ASSIGNS, ALL OIL, GAS AND OTHER HYDROCARBONS, GEOTHERMAL RESOURCES AS DEFINED IN SECTION 79.76.030, REVISED CODE OF WASHINGTON, AND ALL OTHER MINERALS, WHETHER SIMILAR TO THOSE HEREIN SPECIFIED OR NOT WITHIN OR THAT MAY BE PRODUCED FROM SAID REAL PROPERTY; PROVIDED, HOWEVER, THAT ALL RIGHTS AND INTEREST IN THE SURFACE OF SAID REAL PROPERTY ARE HEREBY CONVEYED TO GRANTEE, NO RIGHT OR INTEREST OF ANY KIND THEREIN, EXPRESS OR IMPLIED, BEING EXCEPTED OR RESERVED TO GRANTOR EXCEPT AS HEREINAFTER EXPRESSLY SET FORTH. ALSO EXCEPTING AND RESERVING TO GRANTOR, ITS SUCCESSORS AND ASSIGNS, THE SOLE AND EXCLUSIVE RIGHT FROM TIME TO TIME TO DRILL AND MAINTAIN WELLS OR OTHER WORKS INTO OR THROUGH SAID REAL PROPERTY BELOW A DEPTH OF FIVE HUNDRED (500) FEET AND TO PRODUCE, DRAIN, STORE AND REMOVE FROM OR THROUGH SUCH WELLS OR WORKS, OIL, GAS AND OTHER SUBSTANCES OF WHATEVER NATURE, INCLUDING THE RIGHT TO PERFORM ANY AND

9503170236

015



CHICAGO TITLE INSURANCE COMPANY, COUNTY AUDIT

CHICAGO TITLE INSURANCE COMPANY

FLAT CERTIFICATE  
SCHEDULE B

Order No.: 370884

(Continued)

ALL OPERATIONS DEEMED BY GRANTEE  
NECESSARY OR CONVENIENT FOR THE  
EXERCISE OF SUCH RIGHTS.

6. EASEMENT AND THE TERMS AND CONDITIONS THEREOF:

GRANTEE:	ALDERWOOD WATER DISTRICT
PURPOSE:	SANITARY SEWER, TOGETHER WITH ALL CONNECTIONS AND APPURTENANCES THERETO
AREA AFFECTED:	AS DESCRIBED THEREIN
RECORDED:	SEPTEMBER 29, 1989
RECORDING NUMBER:	8909290531

- 7. TERMS AND PROVISIONS OF THE COVENANT AGREEMENT RECORDED AUGUST 23, 1989 UNDER AUDITOR'S FILE NO. 8908230414, A COPY OF WHICH IS HERETO ATTACHED.
- 8. TERMS AND PROVISIONS OF THE SECTOR AGREEMENT RECORDED AUGUST 23, 1989 UNDER AUDITOR'S FILE NO. 8908230415, A COPY OF WHICH IS HERETO ATTACHED.
- 9. RESERVATIONS CONTAINED IN DEED RECORDED UNDER AUDITOR'S FILE NUMBER 9103290465, A COPY OF WHICH IS HERETO ATTACHED.
- 10. RESERVATIONS CONTAINED IN DEED RECORDED UNDER AUDITOR'S FILE NUMBER 9101120369, A COPY OF WHICH IS HERETO ATTACHED.
- 11. THE COMPANY'S LIABILITY FOR THIS REPORT IS LIMITED TO \$1,000.00. THIS REPORT IS BASED ON THE COMPANY'S PROPERTY RECORDS, AND NO LIABILITY IS ASSUMED FOR ITEMS MISINDEXED OR NOT INDEXED IN THE PUBLIC RECORDS, OR FOR MATTERS WHICH WOULD BE DISCLOSED BY AN INQUIRY OF THE PARTIES IN POSSESSION OR BY AN ACCURATE SURVEY OR INSPECTION OF THE PREMISES. THIS REPORT AND THE LEGAL DESCRIPTION GIVEN HEREIN ARE BASED UPON INFORMATION SUPPLIED BY THE APPLICANT AS TO THE LOCATION AND IDENTIFICATION OF THE PREMISES IN QUESTION, AND NO LIABILITY IS ASSUMED FOR DISCREPANCIES RESULTING THEREFROM. THIS REPORT DOES NOT REPRESENT EITHER A COMMITMENT TO INSURE TITLE, AN EXAMINATION OF, OR OPINION AS TO THE SUFFICIENCY OR EFFECT OF THE MATTERS SHOWN, OR AN OPINION AS TO THE MARKETABILITY OF TITLE TO THE SUBJECT PREMISES.

END OF SCHEDULE B

NOTE A: BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NUMBER 9103290463.

NOTE B: BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NUMBER 9101120369.

NOTE C:  
A SURVEY HAS BEEN RECORDED UNDER RECORDING NUMBER 8908238003.

016

CHICAGO TITLE INSURANCE COMPANY

**PLAT CERTIFICATE  
SCHEDULE B**  
(Continued)

Order No: 170884

---

A COPY OF WHICH IS HERETO ATTACHED.

**NOTE D:**

A SURVEY HAS BEEN RECORDED UNDER RECORDING NUMBER 8908048001,  
A COPY OF WHICH IS HERETO ATTACHED.

RE/KC

9503170236

017

C  
COPV

FINDINGS AND RECOMMENDATION  
OF THE HEARING EXAMINER OF THE CITY OF MUKILTEO

In the Matter of the Application )  
of LOZIER HOMES, ) NO. HE-PP-94-1  
For Approval of a Preliminary Plat )

RECOMMENDATION

It is hereby recommended that the preliminary plat of One Club House Lane Division A-E (Sector 17, Harbor Point) for 190 lots to be developed with detached single family residential housing, recreational facilities and open space be approved. The approval should be made subject to the conditions as herein stated.

INTRODUCTION

Lozier Homes, Inc., 1203 - 114th Avenue S.E., Bellevue, Washington 98004 (hereinafter referred to as applicant), requested approval of a preliminary plat to subdivide 58.64 acres of land into 190 lots. The proposed plat is to be developed on Sector 17 of the Harbor Point in the City of Mukilteo. The property is located west of Harbor Point Boulevard and east of the WindandTide subdivision in Snohomish County. The proposed plat is to be constructed in no more than five divisions (A-E). Snohomish approved the preliminary plat in 1990, but the permit lapses on May 1, 1994.

A hearing on the request was held before the Hearing Examiner of the City of Mukilteo on January 27, 1994.

At the hearing the following presented testimony and evidence:

9503170236

018

VOL. 3011 PAGE 1166

COPY

PAUL E. SCHAEFER, Assistant Planner, City of Mukilteo, Mukilteo, WA. Mr. Schaefer gave a background of the preliminary plat; described the land that was involved; described the history of the plat approval in Snohomish County; and gave recommendations on behalf of the City of Mukilteo.

GARY NYBERG, Public Works Department, City of Mukilteo, Mukilteo, Washington - Mr. Nyberg described storm drainage from the site and the development of utilities within the proposed subdivision.

CHARLES LAPPENBUSCH, 1203 - 114th Avenue S.E., Bellevue, Washington 98004. Mr. Lappenbusch testified on the development that has occurred in the area and the designs and awards in customer service that have been garnered by the applicant.

DON MILLER, 8888 - 45th Place West, Mukilteo, Washington. Mr. Miller was the chief spokesperson for the applicant. He provided a background of the creation of Sector 17; a history of the governmental approval of the plat on August 15, 1988 by Snohomish County; a discussion of the master plan; a description of the utilities; and a discussion of conditions as recommended by the Planning Department. Mr. Miller's specific comments on the conditions of approval will be addressed in the Findings of this document.

ERIK SMITH, 12314 Scenic Drive, Edmonds, Washington 98026. Mr. Smith testified in objection to the size of the lots of the proposed development submitting that they are marginal in size;

9508170286

019

VOL. 3011 PAGE 1167

ADULTS-183 YEMILLER, CUREWY ABILITY

2 COPY

HEARING EXAMINER RECOMMENDATION  
LOZIER HOMES 2/11/94  
Page 3

about potential sewer problems; that the lots would be too dense; and that the small lots on the subject property are not consistent with other lots that have been developed in the area. Mr. Smith also submitted that landscaping should occur on the rear of the lots that front Scenic Drive. Mr. Smith also objected to the fact that he did not receive a Staff Report prior to the hearing. (Because Mr. Smith did not receive a Staff Report, he was granted an additional seven days in which to submit written testimony.) Mr. Smith also submitted that there will be an aesthetic impact with the cutting down of trees for the development. Further, he claimed that the detention facilities for the plat will be disruptive and could cause erosion. He submitted that there should be road improvements on Scenic Drive with a fence set back off from the street.

STEPHANIE PIRIE, 12610 Maplewood Avenue, Edmonds, Washington 98026. Ms. Pirie submitted that she is the vice-president of the WindandTide Homeowner's Association. She was concerned about the development and the aesthetics. She recommended that there be no access for construction vehicles through WindandTide during construction. She also recommended that a greenbelt be installed along Scenic Drive and that a fence be constructed. She further submitted that the lots of the proposed development are small and argued that it is not good planning to allow high density development to occur next to the larger lots of WindandTide.

DAVID DAILEY, 12224 - 64th Avenue West, Edmonds, Washington

9503170236

020

VOL. 3011 PAGE 1168

3  
COPY

- Mr. Dailey submitted that the proposed conditions #1 and #2 as set forth in the City Staff Report (Exhibit 1) are in conflict. He submitted that the wording of the conditions is vague and is open to interpretation.

LINDSAY SCHAEFER, 12320 Scenic Drive, Edmonds, Washington.  
Ms. Schaefer testified opposition to the proposal and the size of the lots in the proposed subdivision.

DIANE DAILEY, 12224 - 64th Avenue West, Edmonds, Washington.  
Ms. Dailey testified that the aesthetics of the area will be impacted by the proposed development.

THOMAS EHRLICHMAN, 1221 Second Avenue, #500, Seattle, Washington 98101.

At the hearing the following exhibits were submitted and were admitted as part of the official record:

- Exhibit
- 1 - Staff Report
  - 2 - City of Mukilteo Resolution 93-17
  - 3 - City of Mukilteo Resolution 93-19
  - 4 - City of Mukilteo Resolution 89-19
  - 5 - City of Mukilteo Ordinance 752
  - 6 - Application of One Club House Lane
  - 7 - Vicinity Map
  - 8 - Reduced Preliminary Plat Map
  - 9 - SEPA Environmental Checklist
  - 10- Comments from Alderwood Water District
  - 11- Comments from Community Transit
  - 12- Comments from GTE
  - 13- Comments from Snohomish PUD
    - a) September 21
    - b) October 26
  - 14- Comments from Army Corps of Engineers
  - 15- Memorandum - Engineering Department (8/27/93)
  - 16- Comments from City Department (no identification of department on exhibit)
  - 17- Comments from Snohomish County Public Works
  - 18- Comments from Washington Department of Transportation

9508170286

021

VOL. 3011 PAGE 1169

COPY

- 19- Memorandum - internal planning (8/5/93)
- 20- Determination of Nonsignificance (DNS)
- 21- Letter to Mukilteo City Council from Lozier Homes  
- January 11, 1994
- 22- Geo-Technical Report - 2/24/88
- 23- Letter to BCE Development from Geo-Technical  
Engineers - 2/9/88
- 24- Letter to Don Miller from Washington Department of  
Ecology - 3/16/93
- 25- Downstream Analysis Report (Drainage)
- 26- Hydraulic Project Approval
- 27- DNS appeal - 11/12/93
- 28- City Attorney Memorandum - 1/12/94
- 29- Staff Report - SEPA Appeal
- 30- SEPA Appeal Notice
- 31- Mitigated Determination of Nonsignificance (Sector  
12 and 17) (Snohomish County 7/7/88)
- 32- Mitigated DNS (Sector 17) - 3/17/90
- 33- Hearing Examiner (Snohomish County) decision -  
4/18/90
- 34- Declaration of Covenants/Conditions/Restrictions  
(Sector 12 and 17)
- 35- Series of letter to Lozier Corp. from Terra  
Associates
- 36- Affidavit of Mailing
- 37- Affidavits (two) of Posting
- 38- Affidavit of Publication
- 39- Public Notice
- 40- Memorandum - Planning from Public Works - 1/25/93
- 41- SEPA Appeal Decision - 1/24/94
- 42 - Comment letter dated 3/30/90 from David Dailey re:  
Development of Scenic Drive, 64th Avenue, West,  
WindandTide
- 43- Comment letter dated 10/28/91 from David Dailey  
re: Regatta Estates Degradement on the Picnic  
Point Road
- 44- Comment letter dated 5/3/93 from D. Dailey to G.  
Predohl, Snohomish County Highway Department
- 45- Comment letter dated 1/27/94 from Lindsay Schaefer
- 46- Comment letter dated 1/26/94 from Mike & Stephanie  
Pirie to Mukilteo City Council/Lozier Homes
- 47- Comment letter (undated) from Erik Smith re:  
Lozier Homes application for subdivision of Sector  
17
- 48- Letter dated 1/11/94 from Lozier Homes to Mukilteo  
City Council re: voluntary measures
- 49- Affidavit of Arden Blackledge, P.E. dated 1/11/94  
with attachment of letter dated 6/29/93 from J.  
Glynn to D. Schutt
- 50- Comment letter dated 1/27/94 from G.W.C. Land

9503170286

022

VOL. 3011 PAGE 1170

3  
COPY

- Development Consulting re: Harbour Pointe  
Sector 17 - Comments on 1/21/94 Staff Report and  
Preliminary Plat Hearing Presentation
- 51- Map denoting location of existing storm water  
detention facility
  - 52- Testimony sign in sheet from 1/27/94 public  
hearing
  - 53- Set of Preliminary Plat Maps (six)

Many of the written exhibits are correspondence of the  
witnesses. A summary of the correspondence is as follows:

David Dally (3/30/90). The witness' letter was submitted  
for a hearing held on April 10, 1990. In it, he objected to the  
yards fronting Scenic Drive not being landscaped. The  
correspondence also indicates that too much development has  
occurred in the area and that insufficient infrastructure is  
available to support it.

David Dally (10/20/91 - Letter submitted to Snohomish County  
Council). The witness contended the following: that too much  
development has occurred for the existing infrastructure to  
support it; that the drainage valley in the area has been  
developed as a utility area and has caused problems with existing  
development; a discussion of the witness' impressions of the  
development.

David Dally to Gary Fredohl, Snohomish County Highway  
Department. The letter submitted questioned Snohomish County on  
the activities in the witness' neighborhood. The issues raised  
in the letter are not relevant to the preliminary plat.

Lindsay Schaefer (1/27/94). The witness, a resident of  
WindandTide, requested compromise from the applicant. She

9508170286

023

VOL. 3011 PAGE 1171



submitted that WindandTide "is not a homogenous community that has been designed and cloned by and for twentieth century yuppies". She stated that the City Council should consider the quality and financial contribution WindandTide has made by being in the Mukilteo area. She requested that roadways not be ruined and trees be maintained on the subject property

Based upon the above exhibits and the testimony and evidence submitted at the public hearing, the following Findings of Facts and Conclusions constitute the basis of the recommendation of the Hearing Examiner.

FINDINGS OF FACTS

1. Although it was later annexed into the City of Mukilteo, on May 1, 1990, the subject property was under the jurisdiction of Snohomish County. That date was the effective date for a preliminary plat which had been approved by the County. The County approval was for the development of the proposed One Club House Lane Subdivision and the approval of the preliminary plat. The approval will expire on May 1, 1994, and, because the property is now within the City of Mukilteo, it is necessary that the applicant receive approval of the plat from the City of Mukilteo. Pursuant to an intergovernmental agreement of the preliminary plat has been reviewed pursuant to the Snohomish County standards.

2. Sector 17 is an area of land that consists of 138.8 acres. It has varied uses, including family residential (87.9

9508170286

024

VOL. 3011 PAGE 1172

COPY

acres); public school (9.7 acres); and five fairways of the Harbor Point Golf Course (37.9 acres). The requested preliminary plat is for development on 58.64 of the 87.9 acres that have been designated for single family residential. The new development will result in an additional 190 lots. The remaining 29.26 acres have already been platted for 86 dwelling units.

3. With the development of the subject property, the entire Sector 17 will have 276 detached single family units. The non-residential acreage of Sector 17 includes the golf course, which has been developed, and school district property on which a school is being constructed.

4. Zoned by contract, the undeveloped subject property is zoned R-8,400. The contract also established the planned residential development (PRD) standards for the subject property.

5. The subject property is located in the Comprehensive Plan designated area as Paine Field area. In the Plan, an urban designation has been established which allows four to six dwelling units per acre.

6. The properties to the east and north in the City of Mukilteo are zoned single family residential, R-8,400, with contract. The property to the north is not developed, while the property to the east is developed with One Club House Land Subdivisions 1-3. The property to the south is located in Snohomish County and has a designation of Snohomish County Parkland R-8,400. It is undeveloped and contains the natural

9508170286

025

VOL 3011 PAGE 1173

HEARING EXAMINER RECOMMENDATION  
LOZIER HOMES 2/11/94  
Page 9

vegetation. The property to the west is located in Snohomish County and is zoned single family residential, R-20,000. It is developed with the WindandTide community.

7. Within Sector 17 the slopes are generally slight to moderate. There are slopes on 9.38 acres (approximately 16% of the site) in the northern and southern portions of the plat that have slopes of 15% or greater. In addition, approximately 13% of the site has slopes that exceed 25% grade on which no development is proposed. The remainder of the site consists of slopes of 0-15% grade that can be developed.

8. The vegetation on the subject property consists of second growth fir trees and some deciduous trees. There are shrubs, grasses, and bushes on the site.

9. The platting consists of paving, development of building lots, and installation of utilities. Approximately 85% of the site will be cleared during the site grading necessary for the platting of the property. Approximately 25% of the site will be covered with impervious surfaces, of which approximately 12% of the site will be roadways, while the remaining impervious surfaces will be structures on site.

10. Most of the site has native vegetation except for the area that has been developed as a golf course. In the SEPA checklist, the applicant indicated that approximately 85% of the site will be cleared and that approximately 75,000 to 100,000 cubic yards of earth material will be moved or removed from the

9503170296

026

VOL. 3011 PAGE 1174

site. As a result of the clearing, a significant amount of vegetation will be removed. The City has recommended that the applicant be required to retain a minimum of 25% of the conifer trees which have trunks over eight inches in diameter and are three feet above the ground. If 25% of the trees cannot be retained on each lot, the City recommended that eight foot tall native conifers be planted to replace every tree with a maximum of four replacement trees per lot.

11. Throughout the site are areas of open space that have been designated as native growth protection areas. These areas, and the adjoining buffers, will protect the natural vegetation of the general vicinity. Further, the retention of these areas will ensure slope stability during the development of the lots.

12. The principal access to the plat will be via the Harbor Point Boulevard. Additional access to the subdivision will be via Club House Land with a secondary access provided on Double Eagle Drive. In addition to these accesses, the plat may be reached through One Club House Lane of Sector 12, Division 2 and from Andrews Drive via 59th Avenue West and Preswick Lane.

13. An emergency access road is provided and depicted on tract 996 on the southern portion of the plat. Although this emergency access road will allow for emergency vehicles to enter and leave the subdivision from 64th Avenue West, it will not provide access for any vehicles. Neighbors of the adjoining properties indicated that some type of barrier or bullards should

9503170236

027

VOL 3011 PAGE 1175

be installed to ensure that the access is limited to emergency vehicles.

14. Upon its review, the Planning Department determined that the proposed subdivision of 190 lots has only a few minor deviations from the original preliminary plat, approved by Snohomish County in 1990. The deviations, according to the City, are items that are considered "minor modifications and not require a plat amendment." The only reason, according to the City, that the plat is being reviewed is that its permit will lapse and the applicant must secure an additional three year approval period.

The City submitted that the modifications of the original approved plat satisfy all applicable Snohomish County Engineering Design and Development standards. Further, they are consistent with the Comprehensive Plan designation and the Snohomish Zoning Code development standards on which the review is made.

15. The plat will be developed in divisions A-E. The area that is designated as division C and E is in the northern half of the plat and is separated by a ridge from divisions A, B, and D. As a result of the ridge, there are two natural storm drainage basins within the plat. One of the drainage basins flows to the north and is designated as the Hulk Creek Basin, while the drainage flow to the south is to the Picnic Point Basin. Both of these basins will collect storm drainage from the site, including the tight-lined drainage off each of the residences. The storm

9508170286

028

VOL. 3011 PAGE 1176

drainage will then flow into existing and developed detention facilities that have been designed to collect runoff. The runoff to be collected in these facilities can accommodate storm water from a 100 year design storm. The detention facilities will have regulators that will control the release rate so that no storm drainage emanating from the site will exceed a ten year design storm for undeveloped conditions standard. This detention facility is consistent with County standards. All drainage facilities and storm drainage systems must satisfy NPDES storm water permit requirements which are coordinated through the Washington Department of Ecology.

16. The internal roads of the proposed subdivision will have right of way widths of fifty feet for local streets and sixty feet for collectors. The private access easements and some of the interior lots will be thirty feet. The plans for the roadways of the proposed subdivision have not been submitted but the roads will satisfy the width, grade and other required road standards.

Tract 996, which is for emergency access only, has been designated by the school district as a potential pedestrian access for children using schools in the area. The City indicated that this pedestrian walkway will create no safety or security problems within the site. The WindandTide streets immediately west of the subject property have no pedestrian accessways or sidewalks.

9503170236

029

VOL. 3011 PAGE 1177

3

COPY

17. A complete build-out of 190 lots will cause an additional 1,900 vehicular trips per day to be generated to and from the site. The existing roadway system and the proposed roadways satisfy County engineering standards and are able to carry the additional traffic. The City has indicated that no additional transportation mitigation measures are required.

18. The lots within the proposed subdivision will have water and sewer provided by the Alderwood Water District. In addition, other utility systems including electricity and cable service will be available. Utility lines are located in adjacent streets of Harbor Point Boulevard and 161st Avenue West. The sewer and water will be extended to the site with the completion of the Harbor Point Sector 12, division 2. The Alderwood Water District must approve all construction requests for sewer and water.

19. Divisions A and D will require new gravity flow sanitary sewer mains to be constructed. This main will run through the Snohomish County Parklands between Sector 17 storm water detention vault and an existing sewer pump station near the intersection of Picnic Road. Although the easement for the main has been approved, the County and the City have not agreed on the maintenance responsibility of the drainage system and the pipeline. The City has testified that resolution of this issue is mandatory before Divisions A and D can be developed. The other divisions of the proposed plat are not impacted by this

9503170286

030

Vol. 9011 MAR 11 1994

controversy.

20. Water will be available through a loop system through the divisions. End of line supply lines will occur in the lower portions of Divisions A, D, and E. Because these points are at the City boundary, the sewer main lines for Divisions C and E will connect to existing sewer mains installed as part of Sector 17, Division 2. Division B sewer lines will tie directly into existing One Club Lane division 1 and 3 sewer main.

21. With the replat, minor modifications have been made which result in a revised grading and drainage plan. The revised grading plan was necessary in part because of the increase in the number of lots of division D and E to 77 lots instead of the originally approved 74 lots. With the increase in division D and E, the number of lots in divisions B and E will be decreased by three. The number of lots in division A remains unchanged. The necessary grading and drainage from these revisions have been reviewed by a geotechnical firm. Based on the geotechnical report it appears that the proposed lots within all of the divisions are developable with conditions as imposed either through the SEPA review or as part of this permit:

22. The average size of the lots within the subdivision will be approximately 9,880 square feet. The smallest average lot size will be 7,746 square feet. According to Snohomish County PRD standards, the minimum size required for this PRD district is 5,000 square feet. The smallest lot of the

9503170236

031

VOL. 3011 PAGE 1179



8

(6)(1)(D)17

subdivision is in division C and is 6,026 square feet. The application for all of the lots within the subdivision satisfies the PRD requirements and standards.

23. The applicant has proposed a solid screen wood fence six feet in height along the western boundary line that fronts the WindandTide Subdivision. The applicant has not proposed and the City did not recommend a setback fence. The applicant's representative testified at the hearing that no compromise is acceptable for this fence.

24. Pursuant to the Snohomish County Zoning Code (SCC) 18.46.030(3)(b) the applicant opted to utilize the "professional planning method" for the development of lots 1-6 and 10-17 of Division C, lots 40-45 of Division D, and lots 8-13 of Division E. These lots are proposed to be developed with an allowed deviation of lot size from the required minimum lot size tables of the County Zoning Code. The applicant's information for these lots has been preliminary and the City Planning Department still must review the technical material submitted to support the reduced lots. The process for reviewing this "professional planning method" is set forth in the Snohomish County ordinance cited above. The City submitted that lots 9-13 of Division E should have minimum 30 foot buffers where no site disturbance is allowed. This information should be set forth on the final plat.

25. Lots within Division C (6-16) and lots in Division A (2-6) are located on land that has banks and steep slopes on

9503170236

032

VOL. 3011 PAGE 1180

portions of it. The applicant will designate the top of the banks and the undevelopable slopes and these areas will be protected as native growth protection areas. These areas must be marked with surveyors tapes and signs and posted with warnings that no clearing or grading will be allowed beyond these points. The signs, according to the City, should be installed at 100 foot intervals with clear boundaries being consistent with the clearing plan.

26. The proposed development will impact the Mukilteo School District. The impacts will include the need for increased and improved facilities within the school district to accommodate the children who will live within the proposed subdivision. The applicant and the Mukilteo School District have agreed that the applicant will contribute \$437,991.80 to the school district to mitigate the impacts.

27. The applicant's development will have impacts upon the City of Mukilteo Parks and Recreation facilities. The impacts will include the need for more intense recreational facilities and parks. To offset this impact and to mitigate it, the applicant and the City have agreed that a contribution of \$187,530 will be contributed to the Mukilteo Parks and Recreation Department. In addition, the applicant will develop two park areas within the plat.

28. The applicant entered into agreements with Snohomish County for traffic impact mitigations and the City of Mukilteo

has assumed the position of Snohomish County. The agreements include a unilateral road agreement and a Washington State Department of Transportation agreement. The City has reviewed these agreements and the requirements therein and has determined that no additional traffic mitigation measures are required for development of this plat.

29. The Paine Field Area Comprehensive Plan was established on August 14, 1983. This Plan allows for an urban designation of the subject property with four to six dwelling units per acre permitted. The overlay to this Plan, which includes the subject property, identifies the 16% of the site that has slopes that exceed 15%. There are no wetlands identified on the site.

30. The proposed development will be consistent with the goals and policies of the residential land use section of the Snohomish Code, County Zoning Code, Paine Field Area Comprehensive Plan, and the City of Mukilteo Zoning Code. It will result in a high density residential development in this area that will reduce development costs and the cost of new housing. The proposal will also be consistent with the recent policies as adopted by the Washington State Legislature in the Growth Management Act.

31. As part of the 1978 rezoning contract of the subject property, a PRD overlay was applied to the site. As a result of the PRD, the zoning development standards as set forth in SCC 18.51.050 apply. These bulk regulations, including minimum lot

BY SUPERVISOR ANDREW-BOB THRELLER, COUNTY ASSESSOR

HEARING EXAMINER RECOMMENDATION  
LOZZER HOMES 2/11/94  
Page 18

COPY

area (5,000 square feet), maximum lot coverage (35% or 2,526 square feet, whichever is greater), and minimum lot width (60 feet for interior lots and 65 feet for corner lots) are satisfied. In addition, the maximum building height of twenty-five feet and the minimum setback dimensions of front (fifteen feet), rear (five feet), and sides (five feet) can be satisfied.

32. Some of the lots within Sector 17 adjoin a Snohomish County park. These lots are within the guidelines of the Snohomish County Master Plan, which require 10% of open space when sectors adjoin Snohomish County parklands. The City has indicated that this open space requirement is satisfied by the availability of recreational school property at elementary school #11.

33. The gross area of the subject property is 58.64 acres. Of this acreage, approximately 10.07 acres will be used for development of roads. The net developable area is 48.57 acres. The total number of units that could be built on the net developable area is 302 units. The applicant's proposal for development of this property and others is 285 dwelling units. The proposal is consistent with the development density standards.

34. Within the proposed subdivision, 7.66 acres have been calculated to be needed for open space. The minimum lot size of the lots will be lot #35 of Division C, which will be 6,026 square feet. The average lot size will be 9.884 square feet.

950317028

035

VOL. 3011 PAGE 1103

APPROVED FOR THE CITY OF MUKILTEO, COUNTY ASST.

3

COPY

HEARING EXAMINER RECOMMENDATION  
LOZIER HOMES 2/11/94  
Page 19

35. In addition to the Snohomish County Zoning Code, the application is being reviewed pursuant to the Subdivision Code of the City of Mukilteo. The Mukilteo Municipal Code (MNC) 16.12 sets forth the requirements of approval. Ordinance 736 of the City of Mukilteo establishes dual review process.

36. The City determined that there are appropriate provisions of the proposed subdivision for the public health, safety, and general welfare and for open spaces. The City determined that the proposed drainageways, streets, alleys, waste facilities, water supplies, sanitary wastes, parks, playgrounds, sites for schools and playgrounds satisfy City standards.

37. As part of the proposed development, the applicant provided an open space and recreational facility plan for the 190 lot subdivisions. (This submittal was proposed along with a submittal for the Club House Lane Division 1-3 Sector 17 subdivision.) The plan identifies 6.47 acres of contiguous open space with active recreational facilities for adults and children. The parks are proposed to be located in the southwest portion of the plat and they will include playgrounds, two tot lots, swings, picnic sites, a trail system, and a sports court. In addition, there will be 1.9 acres of open space.

The Mukilteo Park Board has reviewed the plans and endorsed the concept of open space tracts with active and passive play areas. The Board, however, requested that more landscaping be provided behind the sports court in order to provide visual and

9503170236

036

VOL. 3011 PAGE 1184

8  
COPY

noise barriers. Further, other recommendations were submitted by the Park Board and the applicant has agreed to these recommendations.

38. In addition to the parks, the site adjoins the Harbour Pointe Golf Course, which provides public recreational amenities to the site and to the general area. Also, recreational facilities at elementary school #11 will be provided.

39. Pursuant to the State Environmental Policy Act (SEPA) the City of Mukilteo was designated as the lead agency for the environmental review of this project. On October 13, 1993, the City issued a Mitigated Determination of Nonsignificance (MDNS). An appeal of the MDNS was filed and the City Council heard the appeal. The City Council denied the appeal. The specific issues of appeal that were decided by the City Council included environmental impacts on the sewage treatment plant; on county roads; impacts emanating from construction noise; impacts relating to aesthetics; and impacts on storm drainage.

40. In 1978 the Snohomish County Council approved the master plan for the development of the Harbour Pointe area. For the development of this area, the applicant was required to submit development stage approvals followed by sector approvals. On August 15, 1988 the sector plan for this subdivision was approved with conditions. Although the plat was approved by the Snohomish County Council, it has never been fully developed. The County's approval has lapsed and the applicant now seeks approval

of the replat.

41. Public testimony was submitted. Among the issues raised by the various witnesses was the development of the property on the western edge of the proposed plat. This property has rear yards on lots that front Scenic Drive. West of Scenic Drive is an old subdivision known as WindandTide. According to the witnesses, the lots in the older subdivision are significantly larger than the proposed lots on the western boundary of the subject property and will result in a lack of transition from the densely developed property of the subdivision to the semi-rural nature of WindandTide properties.

According to the witnesses, approval should be contingent upon conditions including requirements of landscaping on the rear western lots of the proposed subdivision. The landscaping, according to the witnesses, should be set back at least fifteen feet. In addition, cedar fences should be established behind the landscaping. This, according to the witnesses, would create a buffer and a more reasonable transition from the higher density of the subject property to the less dense development of WindandTide. The applicant, however, indicated that there is no requirement for such landscaping and the setback of the fence would result in the loss of a few lots. The applicant's representative indicated no intention of agreeing to such a condition.

Testimony was also submitted that detention facilities that

9508170286

038

VOL. 3011 PAGE 1186

are to be used for the subject property have proven to be deficient in supplying storm drainage protection from the developed plats in the area. The City responded that prior to any plat development a storm drainage plan must be submitted, and, it must be shown that the detention facilities are effective.

Testimony was also submitted that the applicant should be required to make improvements on 64th Avenue West and Scenic Drive. The applicant responded that no access will be derived from 64th Avenue West and Scenic Drive and the use of that street will not be impacted by the proposed development.

42. Subsequent to the hearing, and, pursuant to a Hearing Examiner Order, written testimony was submitted by witnesses commenting on the Staff Report which was presented at the hearing. The comments included references to conditions and activities in the development of a plat in Sector 12; a request for a thirty foot greenbelt along Scenic Drive; aesthetic issues involving the houses within the subdivision; setbacks; visual impacts; and storm drainageways. These items are related to the SEPA appeal that was filed. The hearing on the SEPA appeal was held before the City Council on January 18, 1994 and the appeal was denied.

#### CONCLUSIONS OF LAW

1. The application is a resubmittal of a preliminary plat which was originally approved by Snohomish County on May 1, 1990.

9503170286

039

VOL. 3011 PAGE 1187



The plat approval was extended for one year and pursuant to SCC 19.20.010(1) the extension will expire on May 1, 1994. The applicant must seek another plat approval to continue the effectiveness of the plat.

2. The proposed plat is a 190 single family lot subdivision proposed to be developed in Divisions A-E on property located on the southwestern boundary of the City of Mukilteo, west of Harbour Pointe Boulevard and east of 64th Avenue West and the adjacent WindandTide subdivision, in Mukilteo, Washington.

3. Pursuant to MNC Chapter 17.84 an appeal was held of the City of Mukilteo's Mitigated Determination of Nonsignificance for the proposed project. The City Council held a hearing and on January 24, 1994 adopted Findings of Facts and Conclusions to support a decision of denial of the appeal. The issues of appeal as raised in the SEPA appeal adequately addressed the environmental impacts of the proposal.

4. Adequate legal notice of the public hearing was given as recorded by the Snohomish County Code.

5. The proposed plat has been reviewed pursuant to the provisions of RCW Title 58 Chapter 17. The proposal has been reviewed pursuant to the requirements as set forth in RCW 58.17.110. Appropriate provisions have been made for the public health, safety, and general welfare; for open spaces; drainageways; roads and streets; water supplies; sanitary waste systems; parks and recreational areas; and playgrounds, school

and schoolgrounds. In addition, the proposal has considered safety provisions, including pedestrian walkways for children that ensure safe walking conditions for students to and from school.

6. The public interest will be best served by the approval of the subdivision.

7. The development within the Harbour Pointe area is governed by the Harbour Pointe Master Plan and the rezone contract approved by the Board of Snohomish County Commissioners in August 1978. Although the subject property was annexed into the City of Mukilteo, it was originally approved as a preliminary plat while still in the County. The County's approval was transferred to the City at the time of annexation.

8. Pursuant to an interlocal agreement the developmental standards of Snohomish County, the Harbour Pointe Master Plan, and the rezone contract approved by the Board of Snohomish County Commissioners are applicable for the review by the City of Mukilteo of this proposal.

9. The bulk regulations for preliminary plats as set forth in SCC 18.42.020 are satisfied by the proposed development. The manner in which they have been satisfied have been addressed in the Findings of this document.

10. The development of lots that have steep slopes has been done pursuant to the procedure as set forth in SCC 18.46.030(3)(b). Although the applicant has reduced the size of

9508170286

041

VOL. 3011 PAGE 1189

3 COPY

these lots, the Planning Director was justified in allowing for the smaller lots because the public health and safety can be maintained while preserving the integrity of the site and eliminating any environmental damages. The requirements of this ordinance must be satisfied prior to any construction of the subdivision.

11. The Hearing Examiner of the City of Mukilteo has no jurisdictional authority to determine the rights of the parties to easement and maintenance agreement for a storm drainage pipeline to be installed on County Parklands (Chaussee v. Snohomish County, 38 Wn.App. 630). Resolution of this issue is mandatory before Divisions A and D of the proposed subdivision can be developed.

12. The PRD standards for development as set forth in the SCC 18.51.050 have been reviewed. The proposal is consistent with these standards and the property can be developed to ensure a large scale development with a variety of housing types and related uses that accommodate the diversity of the growing community.

13. Adequate provisions have been for the mitigation of any impacts to schools, parks and recreation facilities, and roads.

14. The proposal is consistent with the provisions of the Paine Field Comprehensive Plan area. It creates high quality urban residential communities which will be sensitive and compatible with surrounding physical environments.

15. Pursuant to Ordinance No. 736 the application was also reviewed under the MMC Title 16 Chapter 12. The proposal satisfies the procedures and processes for preliminary plats as set forth in MMC 16.12.010(11).

16. Adequate open space will be available within the site. With the open space and native growth protection areas and the parks that will be developed on site, the community will have additional usable recreational areas.

17. Conditions as imposed are reasonable and will allow the property to be developed in a manner that will be consistent with other properties in the area and the zoning and Comprehensive Plan designations of the subject property.

18. The environmental review of the subject property has been done pursuant to the SEPA and MMC 17.84.170. Issues raised by the parties at the public hearing, including those issues relating to storm drainage, aesthetics, construction noise, road impacts, and sewage treatment impacts, have been reviewed by the City and decided by the City Council.

19. The applicant is under no responsibility to make improvements to Scenic Drive or 64th Avenue West. The development of the site will not impact these streets and no impact is directly related to the applicant (Hillis Homes v. Snohomish County, 97 Wn.2d 804).

20. The setbacks along Scenic Drive shall be as agreed to by the applicant and the City. The applicant is under no

COPY

HEARING EXAMINER RECOMMENDATION  
LOZIER HOUSE 2/11/94  
Page 27

responsibility to setback the landscaping. This is an issue of aesthetics which the City Council has adequately addressed in the SEPA appeal.

RECOMMENDATION

Based upon the requirements and authority as set forth in MMC 16.12.010D(3) it is hereby recommended by the Hearing Examiner of the City of Mukilteo to the City Council of the City of Mukilteo that the preliminary plat of One Club House Lane Division A-E (Sector 17, Harbour Pointe) for 190 lots to be developed with detached single family residences located west of Harbour Pointe Boulevard and east of the WindandTide subdivision in Snohomish County be approved subject to the conditions listed below. The basis of this approval is set forth in the Findings of Facts and Conclusions of Law.

CONDITIONS

1. The preliminary plat map received June 30, 1993, shall be the approved plat configuration; changes to the approved plat are restricted by SCC 19.20.020(1).
2. The developer shall fully comply with the procedural and approval process found in MMC 16.12, as in accordance with Mukilteo Ordinance No. 736 and the substantive requirements of Snohomish County Code as adopted by the City of Mukilteo in Ordinance No. 690, 691 and 697.
3. The developer shall fully comply with all applicable requirements of the Harbour Pointe Master Plan contract, Sector

9503170286

044

VOL. 3011 PAGE 1198

17 approval and division of development approval.

4. Pursuant to the Paine Field Area Comprehensive Plan, no single family residences shall be located within an area that has an airport noise level exceeding 65 Ldn.

5. Preliminary plat approval shall be effective for a maximum time period of three (3) years upon which time a final plat which meets all conditions of the preliminary plat approval must be submitted, in accordance with MMC 16.12.010.C(16).

6. Recreational facilities for the project shall be established in accordance with the Open Space and Recreation Facilities Plan and the preliminary plat map and division of development application submittal information. The proponent shall develop and complete the recreation facilities prior to occupancy of the last 100 housing units in the proposed plat. In any event, the Open Space and Recreation Facilities Plan shall retain at least 4 acres of open space.

7. A minimum of 25% of the conifer trees, where the trunk is over 8 inches in diameter 3 feet above the ground, shall be retained on each lot in the plat or an 8 foot tall Northwest native conifer shall be planted to replace every such tree where removal cannot be avoided; a maximum of four replacement trees are required to satisfy this requirement. In any event there shall be a minimum of four Northwest native conifer trees remaining on each lot. A note to this effect shall be placed

upon the final plat map. The applicant is encouraged to complete landscaping, but in order to protect it during construction, this condition must be accomplished with final plat approval.

8. With the exception of the recreation areas and private roads identified on the plat map, all open space areas (tracts) shall remain as Native Growth Protection Areas (NGPAs) and shall remain in a substantially natural state. With the exception of selective thinning, clearing and grading, as shown on Sheet No. 4 of 6, no clearing, grading, filling, building construction or placement, fence construction, or road construction of any kind shall occur within these areas; provided that underground utility lines and drainage discharge swales may cross such areas utilizing the shortest alignment possible, if and only if, no feasible alignment is available which would avoid such a crossing. Removal of vegetation by the property owner shall be limited to that which is diseased or hazardous. Plans for selected thinning shall be approved by the Planning Department. A note to this effect shall be placed upon the final plat map.

9. The applicant shall submit detailed clearing and grading and drainage plans, in accordance with SCC Title 25, Grading and Drainage to the Community Development Department for review and approval prior to any construction activities.

10. Prior to any site disturbance or the issuance of any development permits for the project, a clearing plan for the recreational facilities identified on the Open Space and

9508170286

046

VOL. 3011 PAGE 1194

Recreation Facilities Plan and the preliminary plat map shall be submitted to the Planning Department for approval.

11. Prior to the start of any construction activities and until such a time as the required drainage improvements are fully operational, siltation and other erosion control measures shall be employed as necessary to reduce and/or control erosion or other adverse impacts to the property as well as to ensure appropriate on-site and off-site water quality control. Typical control measures include but are not limited to the following: filter fabric fencing; placement of slope protection materials such as straw mulch other matting; seasonal constraints on construction activities; and/or temporary storm drainage systems.

12. All grading in the critical areas near steep slopes shall be monitored by a qualified engineer to ensure proper implementation of the erosion/siltation control devices, and the recommendations of applicable geotechnical reports.

13. All required water service improvements shall be installed prior to final plat approval for each division and required easements shall be provided in accordance with Alderwood Water District standards. All easements shall be shown on the face of the final plat.

14. The applicant shall install fire hydrants as required by Alderwood Water District. One (1) blue, square (Type II) raised grade marker shall be installed in the roadway to indicate any fire hydrant location. It should be placed directly across

9508170236

047

VOL. 3011 PAGE 1195



from the hydrant location off-set one (1) foot from the roadway center to the side of the hydrant.

15. All required sewer improvements shall be designed to Alderwood Water District standards and installed prior to final plat approval for each division.

16. All required storm drainage improvements shall be installed prior to final plat approval for each of the divisions. All erosion control facilities as deemed necessary shall be in place as directed by the City Engineer or Building Official. A Homeowners Association or covenant/maintenance agreement subject to approval by the City Engineer shall be created to maintain all private drainage facilities in the subdivision that are not within the public right-of-way or public drainage easement and the property owners shall permit the City, in emergency situations, to enter any of the lots in order to make necessary repairs to storm drainage improvements.

A note shall be placed on the final plat as follows: "All drainage easements shall be denoted as private if the drainage line contained within is smaller than 12" in diameter. All private easements shall be maintained by either the individual homeowners, the Homeowner's Association or a combination thereof. All easements containing storm drainage lines 12" and larger shall be designated as public drainage easements. All drainage facilities located within public rights-of-way and public drainage easements shall be dedicated to the public and

9508170286

048

VOL. 3011 PAGE 1196

maintained by the City.

17. The development shall comply with all applicable drainage fee ordinances of the City of Mukilteo.

18. All storm drainage easements for installation and maintenance of drainage improvements shall be shown on the face of the final plat and a note shall be affixed to the plat describing the easement and its purpose.

19. All utilities shall be installed underground unless otherwise approved by the City Engineering Department.

20. The applicant shall relocate any utilities affected by the construction of the subdivision improvements at no cost to the City of Mukilteo.

21. All public right-of-way shall be dedicated and street improvements constructed to Snohomish County standards in effect on the date of preliminary plat application (July 23, 1993).

22. Private street maintenance agreements shall be recorded prior to final plat approval of Divisions C, D, and E in order to insure that the private streets are adequately maintained.

23. The applicant shall conceptually indicate all street light locations on the roadway construction plans for review and approval. Prior to placement of curbs or paving, whichever occurs first, the applicant shall obtain PUD final drawings which indicate all street light locations and submit them to the City for review and approval. Prior to final plat recording, the applicant shall furnish the City acceptable PUD documentation

0 COPY

that the street light installation has been contracted for and all fees required for fully installing the power distribution and lighting systems have been paid.

24. All landscaped areas in the public right-of-way shall be maintained by the developer and/or successor(s) and may be reduced or eliminated if deemed necessary for or detrimental to City road purposes. A note to this effect shall be placed on the face of the final plat.

25. Prior to plan review and inspection by the City Engineering staff, the applicant shall be required to provide a deposit to the City Clerk for the amount of the estimated plan review and inspection costs. The City Engineer shall provide the applicant with a written estimate of those costs. The applicant shall provide an additional deposit to the City Clerk as determined by the City Engineer if actual costs of plan review exceed the initial deposit. A deposit for estimated attorney's fees shall also be provided. The City shall refund any unused monies.

26. Prior to final plat approval for each division, the applicant shall submit a warranty surety to warrant all required improvements, installed, against defects in labor and material for a period of 24 months after acceptance of those improvements by the City. The warranty amount shall be equal to fifteen (15) percent of the costs of the improvements, as determined by the Public Works Director. The surety shall be submitted to and

9508170236

050

VOL. 3011 PAGE 1198

COPY

approved by the City of Mukilteo prior to final plat approval of each division.

27. Prior to final plat approval for each division, the applicant shall pay for and install all required street signs. The exact location and type of all street and other signs related to the subdivision development shall be prepared by the applicant's engineer, on a drawing in triplicate. The ordering, costs and installation of all signs associated with the development shall be the responsibility of the applicant. All sign proposals shall be subject to review and approval by the City Engineer. All approved street signs shall be installed prior to the final construction inspection of each division by the City of Mukilteo.

28. All conditions imposed as part of the MDNS issued for this project on October 13, 1993. The conditions are as follows:

a. Mukilteo School District No. 6 has identified an impact on school resources as a direct effect of new residential development within the District's boundaries. As a result, the applicant shall adhere to the provisions of Snohomish County Title 26C. Since the application became vested on July 23, 1993, the applicant shall pay \$2,305.22 per each new lot created to Mukilteo School District No. 6 for a total of \$437,991.80. The applicant shall pay the required mitigation fee to the School District prior to final plat approval of each division, and a copy of the School

9508170286

051

VOL. 3011 PAGE 1199

District's receipt of funds shall be provided to the City of Mukilteo.

b. According to Ordinance 717 of the Mukilteo Municipal Code (Chapter 17.85), the impacts to park and recreation within the City shall be mitigated by the developer imposing these impacts. Therefore, the developer shall pay \$987.00 for each new lot created, or a total of \$187,530.00, to the City of Mukilteo as direct mitigation for the impact of 190 new single family residences that will be using the Mukilteo Park system. The developer shall sign a Voluntary Park Agreement on forms provided by the City and pay the mitigation fee prior to final plat approval of each division. As provided by Mukilteo Municipal Code Title 17, Subsection 17.85.080, the Planning Director may consider a request by the applicant for credit against the mitigation obligation. If the applicant opts to negotiate fees, a request for consideration of credit with supporting documents shall be submitted to the City in accordance with MMC Subsection 17.85.080.

c. Open Space Tract 999 of Division C and Open Space Tract 999 of Division E shall be set aside as Native Growth Protection Areas (NGPA) and shall be restricted as follows:

There shall be no clearing, excavation, fences or fill within a Native Growth Protection Area shown on the face of

9508170286

052

VOL. 3011 PAGE 1200

the plat with the exception of required utility installation, road improvements, removal of dangerous trees, topping of trees, thinning of woodlands for the benefit of the woodlands as determined by a certified landscape architect or arborist and removal of obstructions on drainage courses.

d. Prior to commencement of any clearing or grading activities, the boundaries of all areas to be cleared shall be marked in the field with surveyor's tape and signs stating "no clearing or grading beyond this point without permission from the City of Mukilteo" shall be installed at 100 foot intervals. Field marked boundaries shall be consistent with the proposed clearing plan.

e. Prior to commencement of any clearing or grading activities, City Planning Department staff shall verify that proper on-site flagging and posting of signs has been completed in areas to be cleared.

f. All equipment to be used in clearing and grading operations shall be confined to those areas identified to be cleared.

g. The temporary storage of timber and clearing debris (stumps, branches, etc.) shall be confined to those areas identified to be cleared.

h. The top of bank and down slope areas as shown on the approved final grading plan for Lots 6-15 of Division C and

9508170286

053

VOL. 3011 PAGE 1201

COPY

Lots 2-6 of Division A shall be delineated as Native Growth Protection Areas and shall have the same clearing restrictions as shown on Condition #d. In addition, building setbacks for these lots will be restricted in accordance with the Geotechnical Assessment Soils Reports prepared by Rittenhausen-Zeman and Associates, Inc., for Harbour Pointe Sectors 12 and 17 dated February 24, 1988, and February 9, 1988. A note to this effect shall be placed on the face of the final plat.

i. Minimum 30 foot deep buffers on the rear of Lots 9-13 of Division E shall be depicted on the face of the final plat map along with restrictive language prohibiting site disturbance other than minimal selective tree thinning.

j. The applicant shall comply with all NPDES (National Pollutant Discharge Elimination System) permit requirements as regulated through the Washington State Department of Ecology.

k. The geotechnical report for the lots to be developed under the PPM indicate the lots to be developable sites for single family residences, provided the precautions listed are implemented. All lots developed under the Professional Planning Method shall follow the recommendations of the soils reports prepared by Terra and Associates, Inc. Deviations from the approved soils reports shall be accompanied by new soils reports and site plans prepared in

9508170286

054

VOL. 3011 PAGE 1202

HEARING EXAMINER RECOMMENDATION  
LOGGING HOMES 2/11/94  
Page 38

accordance with the FPM standards listed in Snohomish County Code. The following lots shall be required to use the FPM: Lots 8-13, Division E; Lots 1-6, 10, and 17, Division C; Lots 40-45, Division D.

29. No burning shall be permitted. Effective September 1, 1992, residential yard waste fires and land clearing fires are banned within the City of Mukilteo.

30. A deposit shall be required for the final plat processing per Resolution 89-19 for legal/consultant fees incurred by the City in processing applications. Direct costs for larger projects vary, therefore the City Attorney shall provide an estimate for the review of the project. The applicant shall provide a deposit to the Community Development Department and as provided in Resolution 89-19 (See Attached Copy). The City shall refund any unused monies at the time of recording.

31. A deposit shall be required for the final plat processing in accordance with the current fee resolution for the Hearing Examiner's review of the final plat (See deposit schedule attachment as part of City's most current fee resolution). In cases where the specific application fee does not recover all outside costs attributable to the Hearing Examiner's services, the difference shall be identified by City staff and paid by the applicant to the Community Development Department. The City shall refund any unused monies at the time of recording.

32. The applicant shall have a licensed Civil Engineer

9508170236

055

VOL. 3011 PAGE 1203



prepare and/or supervise the preparation of as-built civil drawing to be reviewed, approved and signed by the City Engineer upon satisfactory installation of the required public street and utility improvements. One reproducible and 3 signed blue-line drawings shall be submitted prior to final approval of the proposed project.

33. The applicant shall apply to the Snohomish County Auditor at 3000 Rockefeller Avenue, Everett, WA 98201-4060 for a plat name Reservation Certificate and furnish the City with a copy of the approved Reservation Certificate at the time of final plat submittal.

34. An underground tunnel or bridge shall be constructed (as an at-grade crossing shall not be permitted) to accommodate golfers and their carts crossing Club House Lane between the 14th and 15th fairways, unless the developer can demonstrate to the Planning Department and the Public Works Director that adequate site distance can be obtained in the plat design for an at-grade crossing at that location.

35. At-grade crossing shall be permitted on 128th Street SW (between Fairways No. 15 and 16).

36. Plans for construction of all golf course crossings shall be subject to submittal to and approval by the Public Works Director during construction plan approval and prior to the initiation of road construction.

37. Tract 996, in Division E, as depicted on the

preliminary plat map, shall be designated as only for emergency vehicle access and pedestrian traffic. Ownership and maintenance of this tract shall be by the Sector 17 Homeowner's Association. The tract shall contain, at the western end, a normally locked vehicle gate to be opened only by emergency or emergency training crews. The Mukilteo Fire Department may advise the Mukilteo Department of Public Works as to any design requirements they may feel appropriate for the driving surface and locked vehicle gate. Also to be located at the western end of the tract, is to be an open pedestrian gate primarily intended for the potential passage of school children. Mukilteo School District No. 6 may advise the Mukilteo Department of Public Works as to any special design requirements they may feel appropriate for the permanently open pedestrian gate. Sole approval authority for these gates shall reside with the Mukilteo Department of Public Works. A note shall be placed on the final plat containing this tract designating it as "Tract 996, subject to a non-exclusive easement for emergency vehicle access and pedestrian access, in Division E."

38. No permitted access from any lot in this subdivision shall be permitted to 54th Avenue West. All lots shall take vehicular access from interior plat roads. A note to this effect shall be placed on the final plat.

39. Surface water run-off from streets shall be collected by the storm drainage system and directed to the existing storm

water retention/detention facilities located in Sectors 12 and 17. Surface water run-off from driveways and roofs, where feasible, shall be collected by the storm drainage system and directed to the existing storm water retention/detention facilities located in Sectors 12 and 17. A note to this effect shall be placed on the final plat.

40. All construction activity shall be limited to those working hours per the City of Mukilteo Codes (7:00 a.m. - 10 p.m., weekdays and 8:00 a.m. - 10:00 p.m., weekends).

41. In accordance with SCC Title 13, Roads and Bridges, the Director of Public Works shall reserve the right to require the applicant to provide a maintenance bond, if he concludes that there may be damage done to the right-of-way, in this case, 64th Avenue West (Snohomish County). Said deposit shall represent an amount determined to be necessary to adequately protect such right-of-way, to cover the costs of restoration and repair of such anticipated damages and also approved by the Director of Snohomish County Public Works Department. In doing so, the Public Works Director or his designee shall, prior to the commencement of any construction activities, photograph the roadway conditions in order to establish a photographic catalogue of the pre-existing conditions.

42. Access to Divisions A, B, C, D and E in Sector 17 from 64th Avenue West is not anticipated for purposes of plat and home

9508170286

058

VOL. 3011 PAGE 1206

3

construction, but will be permitted for the limited purposes of hauling of equipment and materials, if no other reasonable access is available. Upon completion of plat and home construction, there shall be no vehicular access to any divisions of the plat from 64th Avenue West, except for the following limited purposes:

- a. Emergency access as provided in Condition 37, above; and
- b. Temporary access for purposes of maintaining a storm water detention vault, which temporary access shall terminate upon approval and recording of the final plat for Division D, Sector 17.

43. Temporary access from 64th Avenue West will be permitted for purposes of construction of sanitary sewer and storm water sewer systems that serve the plat and that are located near or on proposed Tract 997 in Division D, County or City park land or Sector 21. To the maximum extent feasible, this construction access shall be utilized only during the major construction period, consisting of a continuous 60 to 90 day period occurring between April 1 and November 1 of the year in which the construction occurs. Access will be permitted at other times, before and after the major construction period, to the extent reasonably necessary to prepare, maintain, inspect or repair the installations.

44. Lozier Homes Corporation shall institute a series of measures designed to minimize aesthetic impacts between the

9508170236

9508170286

059

VOL. 3011 PAGE 1207

WindandTide and One Club House Lane subdivisions, as described in the following three sub-conditions.

a. Lozier Homes Corporation shall construct a wooden fence, 6 feet in height, along those rear lot lines of One Club House Lane bordering 64th Avenue West, including those lots (15-19, Division E) abutting Tract 998, to be completed no later than the date of construction for all homes in Division D and E, Sector 17, is completed. The fence shall be maintained by individual lot owners pursuant to standards established by the homeowners' association and the applicable Covenants, Conditions and Restrictions of One Club House Lane.

b. Lozier Homes Corporation, as the Declarant, shall amend the Architectural Guidelines of the One Club House Lane Covenants, Conditions and Restrictions, to require a rear yard setback for home construction unless an exception is granted by the Architectural Control Committee due to lot configuration making the setback impracticable or unless prohibited by code. The setback shall measure an average of 15 feet from the Easterly right-of-way of 64th Avenue West. The setback requirement shall apply to all lots immediately adjacent to and bordering 64th Avenue West, but shall not apply to Lots 15, 16, 17, and 19 of Division E.

c. Lozier Homes Corporation shall make reasonable efforts to preserve existing healthy conifer trees of at least 3 inches

9503170286

060

VOL. 3011 PAGE 1308

in diameter at breast height that are located within 10 feet of the Easterly right-of-way line of 64th Avenue West ("ten foot tree buffer"). In doing so, Lozier Homes Corporation is not required to exceed the "four tree per lot" standard described below. The ten foot tree buffer shall not apply to lots that are not directly adjacent to the Easterly right-of-way of 64th Avenue West. This condition shall not prevent the removal of shrubs and vegetation or deciduous trees. This condition shall not prevent the removal of any trees reasonably necessary for clearing or grading associated with fence construction, surface runoff control, lot contouring or utility construction. In any event, Lozier Homes Corporation will ensure that, upon completion of construction, each lot shall contain four conifer trees, either through preservation of existing trees, planting of new trees or a combination of both preservation and planting. Lozier Homes Corporation shall make reasonable efforts to locate these four trees within the ten foot buffer area described above.

45. Tract 998 (Within Division E), as depicted on the preliminary plat map, shall be designated as a private road for use by Lots 40 and 41 of WindandTide. There shall be no access, vehicular or otherwise, from Lots 15-19, Division E, of the proposed plat. The following note shall be placed on the final plat: "Tract 998, Division E, Private Ownership, shall be

9508170286

061

VOL. 3011 PAGE 1209

HEARING EXAMINER RECOMMENDATION  
LOZZIE HOMES 2/11/94  
Page 43

Copy

conveyed by quit claim deed to the owners of lots 40 and 41 of WindandTide after teh recording of Division E. This tract shall be for the exclusive use of ingress, egress and utilities serving said lots 40 and 41. No access from any Division E lots shall be allowed. If the quit claim deed is not accepted by the owners of lots 40 and 41, the tract shall remain in the ownership of other Sector 17 Homeowner's Association, who may convey ownership to the abutting Sector 17 lots.

DATED this 11 day of February, 1994.

  
JAMES M. DRISCOLL  
Hearing Examiner

(1) 51 W 11 41 191 37 (1)

9508170286

062

VOL. 3011 PAGE 1210

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S  
INDEXING FORM (Cover Sheet)

RECORDED

96 SEP 27 AM 11:20

AUDITOR  
SNOHOMISH COUNTY, WASH.  
DEPUTY \_\_\_\_\_

Return Address  
CDD Administrator  
City of Mukilteo  
4480 Channault Beach Road  
Mukilteo, WA 98275

Please print or type information

X-Ref. A.F.# 9609275003

Document Title(s) (or transactions contained therein): Subdivision - One Club House Lane  
Division 9 - 59 lots #  
1. Preliminary Plat Approval - Findings & Recommendation of the Hearing Examiner  
2. Addendum for MERS for Preliminary Plat issued October 11, 1993  
3. Covenants, Conditions & Restrictions for One Club House Lane, Div. 9  
4. Plat Certificate - Schedules A and B  
\* Formerly Div. C + ptn Div. D of Prelim. Plat one Club House Lane, Div. A-E

Reference Number(s) of Documents assigned or released:  
(on page \_\_\_ of document(s))

Grantor(s) (Last name first, then first name and initials)  
1. City of Mukilteo  
2.  
3.  
4.  
5.  Additional names on page \_\_\_ of document.

Grantee(s) (Last name first, then first name and initials)  
1. Lozier Homes  
2.  
3.  
4.  
5.  Additional names on page \_\_\_ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)  
Portion of NE 1/4 of Section 29 and the NW 1/4 of Section 28, Township 28 North,  
Range 4 East, W.M., in Snohomish County, Washington  
 Additional legal is on pages 55-56 of document.

Assessor's Property Tax Parcel/Account Number  
  
 Additional legal is on page \_\_\_ of document.

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

9609270118



FINDINGS AND RECOMMENDATION  
OF THE HEARING EXAMINER OF THE CITY OF MUKILTEO

In the Matter of the Application )  
of LOZIER HOMES, )  
For Approval of a Preliminary Plat )

NO. HE-PP-94-1

RECOMMENDATION

It is hereby recommended that the preliminary plat of One Club House Lane Division A-E (Sector 17, Harbor Point) for 190 lots to be developed with detached single family residential housing, recreational facilities and open space be approved. The approval should be made subject to the conditions as herein stated.

INTRODUCTION

Lozier Homes, Inc., 1203 - 114th Avenue S.E., Bellevue, Washington 98004 (hereinafter referred to as applicant), requested approval of a preliminary plat to subdivide 58.64 acres of land into 190 lots. The proposed plat is to be developed on Sector 17 of the Harbor Point in the City of Mukilteo. The property is located west of Harbor Point Boulevard and east of the WindandTide subdivision in Snohomish County. The proposed plat is to be constructed in no more than five divisions (A-E). Snohomish approved the preliminary plat in 1990, but the permit lapses on May 1, 1994.

A hearing on the request was held before the Hearing Examiner of the City of Mukilteo on January 27, 1994.

At the hearing the following presented testimony and evidence:

9609270118

001

VOL. 3215 PAGE 1039

PAUL E. SCHAEFER, Assistant Planner, City of Mukilteo, Mukilteo, WA. Mr. Schaefer gave a background of the preliminary plat; described the land that was involved; described the history of the plat approval in Snohomish County; and gave recommendations on behalf of the City of Mukilteo.

GARY NYBERG, Public Works Department, City of Mukilteo, Mukilteo, Washington - Mr. Nyberg described storm drainage from the site and the development of utilities within the proposed subdivision.

CHARLES LAPPENBUSCH, 1203 - 114th Avenue S.E., Bellevue, Washington 98004. Mr. Lappenbusch testified on the development that has occurred in the area and the designs and awards in customer service that have been garnered by the applicant.

DON MILLER, 8888 - 45th Place West, Mukilteo, Washington. Mr. Miller was the chief spokesperson for the applicant. He provided a background of the creation of Sector 17; a history of the governmental approval of the plat on August 15, 1988 by Snohomish County; a discussion of the master plan; a description of the utilities; and a discussion of conditions as recommended by the Planning Department. Mr. Miller's specific comments on the conditions of approval will be addressed in the Findings of this document.

ERIK SMITH, 12314 Scenic Drive, Edmonds, Washington 98026. Mr. Smith testified in objection to the size of the lots of the proposed development submitting that they are marginal in size;

about potential sewer problems; that the lots would be too dense; and that the small lots on the subject property are not consistent with other lots that have been developed in the area. Mr. Smith also submitted that landscaping should occur on the rear of the lots that front Scenic Drive. Mr. Smith also objected to the fact that he did not receive a Staff Report prior to the hearing. (Because Mr. Smith did not receive a Staff Report, he was granted an additional seven days in which to submit written testimony.) Mr. Smith also submitted that there will be an aesthetic impact with the cutting down of trees for the development. Further, he claimed that the detention facilities for the plat will be disruptive and could cause erosion. He submitted that there should be road improvements on Scenic Drive with a fence set back off from the street.

STEPHANIE PIRIE, 12610 Maplewood Avenue, Edmonds, Washington 98026. Ms. Pirie submitted that she is the vice-president of the WindandTide Homeowner's Association. She was concerned about the development and the aesthetics. She recommended that there be no access for construction vehicles through WindandTide during construction. She also recommended that a greenbelt be installed along Scenic Drive and that a fence be constructed. She further submitted that the lots of the proposed development are small and argued that it is not good planning to allow high density development to occur next to the larger lots of WindandTide.

DAVID DAILEY, 12224 - 64th Avenue West, Edmonds, Washington

9609270118

003

VOL. 3215 PAGE 1041

HEARING EXAMINER RECOMMENDATION  
LOCKER HOMES 2/11/94  
Page 4

- Mr. Dailey submitted that the proposed conditions #1 and #2 as set forth in the City Staff Report (Exhibit 1) are in conflict. He submitted that the wording of the conditions is vague and is open to interpretation.

LINDSAY SCHAEFER, 12320 Scenic Drive, Edmonds, Washington. Ms. Schaefer testified opposition to the proposal and the size of the lots in the proposed subdivision.

DIANE DAILEY, 12224 - 64th Avenue West, Edmonds, Washington. Ms. Dailey testified that the aesthetics of the area will be impacted by the proposed development.

THOMAS EHRLICHMAN, 1221 Second Avenue, #500, Seattle, Washington 98101.

At the hearing the following exhibits were submitted and were admitted as part of the official record:

- Exhibit
- 1 - Staff Report
  - 2 - City of Mukilteo Resolution 93-17
  - 3 - City of Mukilteo Resolution 93-19
  - 4 - City of Mukilteo Resolution 89-19
  - 5 - City of Mukilteo Ordinance 752
  - 6 - Application of One Club House Lane
  - 7 - Vicinity Map
  - 8 - Reduced Preliminary Plat Map
  - 9 - SEPA Environmental Checklist
  - 10- Comments from Alderwood Water District
  - 11- Comments from Community Transit
  - 12- Comments from GTE
  - 13- Comments from Snohomish PUD
    - a) September 21
    - b) October 26
  - 14- Comments from Army Corps of Engineers
  - 15- Memorandum - Engineering Department (8/27/93)
  - 16- Comments from City Department (no identification of department on exhibit)
  - 17- Comments from Snohomish County Public Works
  - 18- Comments from Washington Department of Transportation

8609270118

004

VOL. 3215 PAGE 1042

HEARING EXAMINER RECOMMENDATION  
LOZIER HOMES 2/11/94

Page 5

- 19- Memorandum - internal planning (8/5/93)
- 20- Determination of Nonsignificance (DNS)
- 21- Letter to Mukilteo City Council from Lozier Homes  
- January 11, 1994
- 22- Geo-Technical Report - 2/24/88
- 23- Letter to BCE Development from Geo-Technical  
Engineers - 2/9/88
- 24- Letter to Don Miller from Washington Department of  
Ecology - 3/16/93
- 25- Downstream Analysis Report (Drainage)
- 26- Hydraulic Project Approval
- 27- DNS appeal - 11/12/93
- 28- City Attorney Memorandum - 1/12/94
- 29- Staff Report - SEPA Appeal
- 30- SEPA Appeal Notice
- 31- Mitigated Determination of Nonsignificance (Sector  
12 and 17) (Snohomish County 7/7/88)
- 32- Mitigated DNS (Sector 17) - 3/17/90
- 33- Hearing Examiner (Snohomish County) decision -  
4/18/90
- 34- Declaration of Covenants/Conditions/Restrictions  
(Sector 12 and 17)
- 35- Series of letter to Lozier Corp. from Terra  
Associates
- 36- Affidavit of Mailing
- 37- Affidavits (two) of Posting
- 38- Affidavit of Publication
- 39- Public Notice
- 40- Memorandum - Planning from Public Works - 1/25/93
- 41- SEPA Appeal Decision - 1/24/94
- 42 - Comment letter dated 3/30/90 from David Dailey re:  
Development of Scenic Drive, 64th Avenue, West,  
WindandTide
- 43- Comment letter dated 10/28/91 from David Dailey  
re: Regatta Estates Degradement on the Picnic  
Point Road
- 44- Comment letter dated 5/3/93 from D. Dailey to G.  
Predohl, Snohomish County Highway Department
- 45- Comment letter dated 1/27/94 from Lindsay Schaefer
- 46- Comment letter dated 1/26/94 from Mike & Stephanie  
Pirie to Mukilteo City Council/Lozier Homes
- 47- Comment letter (undated) from Erik Smith re:  
Lozier Homes application for subdivision of Sector  
17
- 48- Letter dated 1/11/94 from Lozier Homes to Mukilteo  
City Council re: voluntary measures
- 49- Affidavit of Arden Blackledge, P.E. dated 1/11/94  
with attachment of letter dated 6/29/93 from J.  
Glynn to D. Schutt
- 50- Comment letter dated 1/27/94 from G.W.C. Land

0609270118

005

VOL. 3215 PAGE 1043

Development Consulting re: Harbour Pointe  
Sector 17 - Comments on 1/21/94 Staff Report and  
Preliminary Plat Hearing Presentation

- 51- Map denoting location of existing storm water  
detention facility
- 52- Testimony sign in sheet from 1/27/94 public  
hearing
- 53- Set of Preliminary Plat Maps (six)

Many of the written exhibits are correspondence of the  
witnesses. A summary of the correspondence is as follows:

David Daily (3/30/90). The witness' letter was submitted  
for a hearing held on April 10, 1990. In it, he objected to the  
yards fronting Scenic Drive not being landscaped. The  
correspondence also indicates that too much development has  
occurred in the area and that insufficient infrastructure is  
available to support it.

David Daily (10/20/91 - Letter submitted to Snohomish County  
Council). The witness contended the following: that too much  
development has occurred for the existing infrastructure to  
support it; that the drainage valley in the area has been  
developed as a utility area and has caused problems with existing  
development; a discussion of the witness' impressions of the  
development.

David Daily to Gary Predohl, Snohomish County Highway  
Department. The letter submitted questioned Snohomish County on  
the activities in the witness' neighborhood. The issues raised  
in the letter are not relevant to the preliminary plat.

Lindsay Schaefer (1/27/94). The witness, a resident of  
WindandTide, requested compromise from the applicant. She

submitted that WindandTide "is not a homogenous community that has been designed and cloned by and for twentieth century yuppies". She stated that the City Council should consider the quality and financial contribution WindandTide has made by being in the Mukilteo area. She requested that roadways not be ruined and trees be maintained on the subject property

Based upon the above exhibits and the testimony and evidence submitted at the public hearing, the following Findings of Facts and Conclusions constitute the basis of the recommendation of the Hearing Examiner.

FINDINGS OF FACTS

1. Although it was later annexed into the City of Mukilteo, on May 1, 1990, the subject property was under the jurisdiction of Snohomish County. That date was the effective date for a preliminary plat which had been approved by the County. The County approval was for the development of the proposed One Club House Lane Subdivision and the approval of the preliminary plat. The approval will expire on May 1, 1994, and, because the property is now within the City of Mukilteo, it is necessary that the applicant receive approval of the plat from the City of Mukilteo. Pursuant to an intergovernmental agreement of the preliminary plat has been reviewed pursuant to the Snohomish County standards.

2. Sector 17 is an area of land that consists of 135.5 acres. It has varied uses, including family residential (87.9

acres); public school (9.7 acres); and five fairways of the Harbor Point Golf Course (37.9 acres). The requested preliminary plat is for development on 58.64 of the 87.9 acres that have been designated for single family residential. The new development will result in an additional 190 lots. The remaining 29.26 acres have already been platted for 86 dwelling units.

3. With the development of the subject property, the entire Sector 17 will have 276 detached single family units. The non-residential acreage of Sector 17 includes the golf course, which has been developed, and school district property on which a school is being constructed.

4. Zoned by contract, the undeveloped subject property is zoned R-8,400. The contract also established the planned residential development (PRD) standards for the subject property.

5. The subject property is located in the Comprehensive Plan designated area as Paine Field area. In the Plan, an urban designation has been established which allows four to six dwelling units per acre.

6. The properties to the east and north in the City of Mukilteo are zoned single family residential, R-8,400, with contract. The property to the north is not developed, while the property to the east is developed with One Club House Land Subdivisions 1-3. The property to the south is located in Snohomish County and has a designation of Snohomish County Parkland R-6,400. It is undeveloped and contains the natural

9609270118

008

VOL. 3215 PAGE 1046



HEARING EXAMINER RECOMMENDATION

LOZIER HOMES 2/11/94

Page 9

vegetation. The property to the west is located in Snohomish County and is zoned single family residential, R-20,000. It is developed with the Windandwide community.

7. Within Sector 17 the slopes are generally slight to moderate. There are slopes on 9.38 acres (approximately 16% of the site) in the northern and southern portions of the plat that have slopes of 15% or greater. In addition, approximately 13% of the site has slopes that exceed 25% grade on which no development is proposed. The remainder of the site consists of slopes of 0-15% grade that can be developed.

8. The vegetation on the subject property consists of second growth fir trees and some deciduous trees. There are shrubs, grasses, and bushes on the site.

9. The platting consists of paving, development of building lots, and installation of utilities. Approximately 85% of the site will be cleared during the site grading necessary for the platting of the property. Approximately 25% of the site will be covered with impervious surfaces, of which approximately 12% of the site will be roadways, while the remaining impervious surfaces will be structures on site.

10. Most of the site has native vegetation except for the area that has been developed as a golf course. In the SEPA checklist, the applicant indicated that approximately 85% of the site will be cleared and that approximately 75,000 to 100,000 cubic yards of earth material will be moved or removed from the

site. As a result of the clearing, a significant amount of vegetation will be removed. The City has recommended that the applicant be required to retain a minimum of 25% of the conifer trees which have trunks over eight inches in diameter and are three feet above the ground. If 25% of the trees cannot be retained on each lot, the City recommended that eight foot tall native conifers be planted to replace every tree with a maximum of four replacement trees per lot.

11. Throughout the site are areas of open space that have been designated as native growth protection areas. These areas, and the adjoining buffers, will protect the natural vegetation of the general vicinity. Further, the retention of these areas will ensure slope stability during the development of the lots.

12. The principal access to the plat will be via the Harbor Point Boulevard. Additional access to the subdivision will be via Club House Lane with a secondary access provided on Double Eagle Drive. In addition to these accesses, the plat may be reached through One Club House Lane of Sector 12, Division 2 and from Andrews Drive via 59th Avenue West and Preswick Lane.

13. An emergency access road is provided and depicted on tract 996 on the southern portion of the plat. Although this emergency access road will allow for emergency vehicles to enter and leave the subdivision from 64th Avenue West, it will not provide access for any vehicles. Neighbors of the adjoining properties indicated that some type of barrier or bullards should

9609270118

010

VOL. 3215 PAGE 1048

be installed to ensure that the access is limited to emergency vehicles.

14. Upon its review, the Planning Department determined that the proposed subdivision of 190 lots has only a few minor deviations from the original preliminary plat, approved by Snohomish County in 1990. The deviations, according to the City, are items that are considered "minor modifications and not require a plat amendment." The only reason, according to the City, that the plat is being reviewed is that its permit will lapse and the applicant must secure an additional three year approval period.

The City submitted that the modifications of the original approved plat satisfy all applicable Snohomish County Engineering Design and Development standards. Further, they are consistent with the Comprehensive Plan designation and the Snohomish Zoning Code development standards on which the review is made.

15. The plat will be developed in divisions A-E. The area that is designated as division C and E is in the northern half of the plat and is separated by a ridge from divisions A, B, and D. As a result of the ridge, there are two natural storm drainage basins within the plat. One of the drainage basins flows to the north and is designated as the Hulk Creek Basin, while the drainage flow to the south is to the Picnic Point Basin. Both of these basins will collect storm drainage from the site, including the tight-lined drainage off each of the residences. The storm

drainage will then flow into existing and developed detention facilities that have been designed to collect runoff. The runoff to be collected in these facilities can accommodate storm water from a 100 year design storm. The detention facilities will have regulators that will control the release rate so that no storm drainage emanating from the site will exceed a ten year design storm for undeveloped conditions standard. This detention facility is consistent with County standards. All drainage facilities and storm drainage systems must satisfy MPDES storm water permit requirements which are coordinated through the Washington Department of Ecology.

16. The internal roads of the proposed subdivision will have right of way widths of fifty feet for local streets and sixty feet for collectors. The private access easements and some of the interior lots will be thirty feet. The plans for the roadways of the proposed subdivision have not been submitted but the roads will satisfy the width, grade and other required road standards.

Tract 996, which is for emergency access only, has been designated by the school district as a potential pedestrian access for children using schools in the area. The City indicated that this pedestrian walkway will create no safety or security problems within the site. The WindandTide streets immediately west of the subject property have no pedestrian accessways or sidewalks.

17. A complete build-out of 190 lots will cause an additional 1,900 vehicular trips per day to be generated to and from the site. The existing roadway system and the proposed roadways satisfy County engineering standards and are able to carry the additional traffic. The City has indicated that no additional transportation mitigation measures are required.

18. The lots within the proposed subdivision will have water and sewer provided by the Alderwood Water District. In addition, other utility systems including electricity and cable service will be available. Utility lines are located in adjacent streets of Harbor Point Boulevard and 161st Avenue West. The sewer and water will be extended to the site with the completion of the Harbor Point Sector 12, division 2. The Alderwood Water District must approve all construction requests for sewer and water.

19. Divisions A and D will require new gravity flow sanitary sewer mains to be constructed. This main will run through the Snohomish County Parklands between Sector 17 storm water detention vault and an existing sewer pump station near the intersection of Picnic Road. Although the easement for the main has been approved, the County and the City have not agreed on the maintenance responsibility of the drainage system and the pipeline. The City has testified that resolution of this issue is mandatory before Divisions A and D can be developed. The other divisions of the proposed plat are not impacted by this

controversy.

20. Water will be available through a loop system through the divisions. End of line supply lines will occur in the lower portions of Divisions A, D, and E. Because these points are at the City boundary, the sewer main lines for Divisions C and E will connect to existing sewer mains installed as part of Sector 17, Division 2. Division B sewer lines will tie directly into existing One Club Lane division 1 and 3 sewer main.

21. With the replat, minor modifications have been made which result in a revised grading and drainage plan. The revised grading plan was necessary in part because of the increase in the number of lots of division D and E to 77 lots instead of the originally approved 74 lots. With the increase in division D and E, the number of lots in divisions B and E will be decreased by three. The number of lots in division A remains unchanged. The necessary grading and drainage from these revisions have been reviewed by a geotechnical firm. Based on the geotechnical report it appears that the proposed lots within all of the divisions are developable with conditions as imposed either through the SEPA review or as part of this permit.

22. The average size of the lots within the subdivision will be approximately 9,880 square feet. The smallest average lot size will be 7,746 square feet. According to Snohomish County PRD standards, the minimum size required for this PRD district is 5,000 square feet. The smallest lot of the

0609270118

014

VOL. 3215 PAGE 1052

subdivision is in division C and is 6,026 square feet. The application for all of the lots within the subdivision satisfies the PRD requirements and standards.

23. The applicant has proposed a solid screen wood fence six feet in height along the western boundary line that fronts the WindandTide Subdivision. The applicant has not proposed and the City did not recommend a setback fence. The applicant's representative testified at the hearing that no compromise is acceptable for this fence.

24. Pursuant to the Snohomish County Zoning Code (SCC) 18.46.030(3)(b) the applicant opted to utilize the "professional planning method" for the development of lots 1-6 and 10-17 of Division C, lots 40-45 of Division D, and lots 8-13 of Division E. These lots are proposed to be developed with an allowed deviation of lot size from the required minimum lot size tables of the County Zoning Code. The applicant's information for these lots has been preliminary and the City Planning Department still must review the technical material submitted to support the reduced lots. The process for reviewing this "professional planning method" is set forth in the Snohomish County ordinance cited above. The City submitted that lots 9-13 of Division E should have minimum 30 foot buffers where no site disturbance is allowed. This information should be set forth on the final plat.

25. Lots within Division C (6-16) and lots in Division A (2-6) are located on land that has banks and steep slopes on

portions of it. The applicant will designate the top of the banks and the undevelopable slopes and these areas will be protected as native growth protection areas. These areas must be marked with surveyors tapes and signs and posted with warnings that no clearing or grading will be allowed beyond these points. The signs, according to the City, should be installed at 100 foot intervals with clear boundaries being consistent with the clearing plan.

26. The proposed development will impact the Mukilteo School District. The impacts will include the need for increased and improved facilities within the school district to accommodate the children who will live within the proposed subdivision. The applicant and the Mukilteo School District have agreed that the applicant will contribute \$437,991.80 to the school district to mitigate the impacts.

27. The applicant's development will have impacts upon the City of Mukilteo Parks and Recreation facilities. The impacts will include the need for more intense recreational facilities and parks. To offset this impact and to mitigate it, the applicant and the City have agreed that a contribution of \$187,530 will be contributed to the Mukilteo Parks and Recreation Department. In addition, the applicant will develop two park areas within the plat.

28. The applicant entered into agreements with Snohomish County for traffic impact mitigations and the City of Mukilteo



has assumed the position of Snohomish County. The agreements include a unilateral road agreement and a Washington State Department of Transportation agreement. The City has reviewed these agreements and the requirements therein and has determined that no additional traffic mitigation measures are required for development of this plat.

29. The Paine Field Area Comprehensive Plan was established on August 14, 1983. This Plan allows for an urban designation of the subject property with four to six dwelling units per acre permitted. The overlay to this Plan, which includes the subject property, identifies the 16% of the site that has slopes that exceed 15%. There are no wetlands identified on the site.

30. The proposed development will be consistent with the goals and policies of the residential land use section of the Snohomish Code, County Zoning Code, Paine Field Area Comprehensive Plan, and the City of Mukilteo Zoning Code. It will result in a high density residential development in this area that will reduce development costs and the cost of new housing. The proposal will also be consistent with the recent policies as adopted by the Washington State Legislature in the Growth Management Act.

31. As part of the 1978 rezone contract of the subject property, a PRD overlay was applied to the site. As a result of the PRD, the zoning development standards as set forth in SCC 18.51.050 apply. These bulk regulations, including minimum lot

area (5,000 square feet), maximum lot coverage (35% or 2,526 square feet, whichever is greater), and minimum lot width (60 feet for interior lots and 65 feet for corner lots) are satisfied. In addition, the maximum building height of twenty-five feet and the minimum setback dimensions of front (fifteen feet), rear (five feet), and sides (five feet) can be satisfied.

32. Some of the lots within Sector 17 adjoin a Snohomish County park. These lots are within the guidelines of the Snohomish County Master Plan, which require 10% of open space when sectors adjoin Snohomish County parklands. The City has indicated that this open space requirement is satisfied by the availability of recreational school property at elementary school #11.

33. The gross area of the subject property is 58.64 acres. Of this acreage, approximately 10.07 acres will be used for development of roads. The net developable area is 48.57 acres. The total number of units that could be built on the net developable area is 302 units. The applicant's proposal for development of this property and others is 285 dwelling units. The proposal is consistent with the development density standards.

34. Within the proposed subdivision, 7.66 acres have been calculated to be needed for open space. The minimum lot size of the lots will be lot #35 of Division C, which will be 6,026 square feet. The average lot size will be 9.884 square feet.

35. In addition to the Snohomish County Zoning Code, the application is being reviewed pursuant to the Subdivision Code of the City of Mukilteo. The Mukilteo Municipal Code (MMC) 16.12 sets forth the requirements of approval. Ordinance 736 of the City of Mukilteo establishes dual review process.

36. The City determined that there are appropriate provisions of the proposed subdivision for the public health, safety, and general welfare and for open spaces. The City determined that the proposed drainageways, streets, alleys, waste facilities, water supplies, sanitary wastes, parks, playgrounds, sites for schools and playgrounds satisfy City standards.

37. As part of the proposed development, the applicant provided an open space and recreational facility plan for the 190 lot subdivisions. (This submittal was proposed along with a submittal for the Club House Lane Division 1-3 Sector 17 subdivision.) The plan identifies 6.47 acres of contiguous open space with active recreational facilities for adults and children. The parks are proposed to be located in the southwest portion of the plat and they will include playgrounds, two tot lots, swings, picnic sites, a trail system, and a sports court. In addition, there will be 1.9 acres of open space.

The Mukilteo Park Board has reviewed the plans and endorsed the concept of open space tracts with active and passive play areas. The Board, however, requested that more landscaping be provided behind the sports court in order to provide visual and

0609270118

.. 019

VOL. 3215 PAGE 1057

noise barriers. Further, other recommendations were submitted by the Park Board and the applicant has agreed to these recommendations.

38. In addition to the parks, the site adjoins the Harbour Pointe Golf Course, which provides public recreational amenities to the site and to the general area. Also, recreational facilities at elementary school #11 will be provided.

39. Pursuant to the State Environmental Policy Act (SEPA) the City of Mukilteo was designated as the lead agency for the environmental review of this project. On October 13, 1993, the City issued a Mitigated Determination of Nonsignificance (MDNS). An appeal of the MDNS was filed and the City Council heard the appeal. The City Council denied the appeal. The specific issues of appeal that were decided by the City Council included environmental impacts on the sewage treatment plant; on county roads; impacts emanating from construction noise; impacts relating to aesthetics; and impacts on storm drainage.

40. In 1978 the Snohomish County Council approved the master plan for the development of the Harbour Pointe area. For the development of this area, the applicant was required to submit development stage approvals followed by sector approvals. On August 15, 1988 the sector plan for this subdivision was approved with conditions. Although the plat was approved by the Snohomish County Council, it has never been fully developed. The County's approval has lapsed and the applicant now seeks approval

of the replat.

41. Public testimony was submitted. Among the issues raised by the various witnesses was the development of the property on the western edge of the proposed plat. This property has rear yards on lots that front Scenic Drive. West of Scenic Drive is an old subdivision known as WindandTide. According to the witnesses, the lots in the older subdivision are significantly larger than the proposed lots on the western boundary of the subject property and will result in a lack of transition from the densely developed property of the subdivision to the semi-rural nature of WindandTide properties.

According to the witnesses, approval should be contingent upon conditions including requirements of landscaping on the rear western lots of the proposed subdivision. The landscaping, according to the witnesses, should be set back at least fifteen feet. In addition, cedar fences should be established behind the landscaping. This, according to the witnesses, would create a buffer and a more reasonable transition from the higher density of the subject property to the less dense development of WindandTide. The applicant, however, indicated that there is no requirement for such landscaping and the setback of the fence would result in the loss of a few lots. The applicant's representative indicated no intention of agreeing to such a condition.

Testimony was also submitted that detention facilities that

are to be used for the subject property have proven to be deficient in supplying storm drainage protection from the developed plats in the area. The City responded that prior to any plat development a storm drainage plan must be submitted, and, it must be shown that the detention facilities are effective.

Testimony was also submitted that the applicant should be required to make improvements on 64th Avenue West and Scenic Drive. The applicant responded that no access will be derived from 64th Avenue West and Scenic Drive and the use of that street will not be impacted by the proposed development.

42. Subsequent to the hearing, and, pursuant to a Hearing Examiner Order, written testimony was submitted by witnesses commenting on the Staff Report which was presented at the hearing. The comments included references to conditions and activities in the development of a plat in Sector 12; a request for a thirty foot greenbelt along Scenic Drive; aesthetic issues involving the houses within the subdivision; setbacks; visual impacts; and storm drainageways. These items are related to the SEPA appeal that was filed. The hearing on the SEPA appeal was held before the City Council on January 18, 1994 and the appeal was denied.

#### CONCLUSIONS OF LAW

1. The application is a resubmittal of a preliminary plat which was originally approved by Snohomish County on May 1, 1990.

HEARING EXAMINER RECOMMENDATION

LOZIER HOMES 2/11/94

Page 23

The plat approval was extended for one year and pursuant to SCC 19.20.010(1) the extension will expire on May 1, 1994. The applicant must seek another plat approval to continue the effectiveness of the plat.

2. The proposed plat is a 190 single family lot subdivision proposed to be developed in Divisions A-E on property located on the southwestern boundary of the City of Mukilteo, west of Harbour Pointe Boulevard and east of 64th Avenue West and the adjacent WindandTide subdivision, in Mukilteo, Washington.

3. Pursuant to MMC Chapter 17.84 an appeal was held of the City of Mukilteo's Mitigated Determination of Nonsignificance for the proposed project. The City Council held a hearing and on January 24, 1994 adopted Findings of Facts and Conclusions to support a decision of denial of the appeal. The issues of appeal as raised in the SEPA appeal adequately addressed the environmental impacts of the proposal.

4. Adequate legal notice of the public hearing was given as recorded by the Snohomish County Code.

5. The proposed plat has been reviewed pursuant to the provisions of RCW Title 58 Chapter 17. The proposal has been reviewed pursuant to the requirements as set forth in RCW 58.17.110. Appropriate provisions have been made for the public health, safety, and general welfare; for open spaces; drainageways; roads and streets; water supplies; sanitary waste systems; parks and recreational areas; and playgrounds, school

and schoolgrounds. In addition, the proposal has considered safety provisions, including pedestrian walkways for children that ensure safe walking conditions for students to and from school.

6. The public interest will be best served by the approval of the subdivision.

7. The development within the Harbour Pointe area is governed by the Harbour Pointe Master Plan and the rezone contract approved by the Board of Snohomish County Commissioners in August 1978. Although the subject property was annexed into the City of Mukilteo, it was originally approved as a preliminary plat while still in the County. The County's approval was transferred to the City at the time of annexation.

8. Pursuant to an interlocal agreement the developmental standards of Snohomish County, the Harbour Pointe Master Plan, and the rezone contract approved by the Board of Snohomish County Commissioners are applicable for the review by the City of Mukilteo of this proposal.

9. The bulk regulations for preliminary plats as set forth in SCC 18.42.020 are satisfied by the proposed development. The manner in which they have been satisfied have been addressed in the Findings of this document.

10. The development of lots that have steep slopes has been done pursuant to the procedure as set forth in SCC 18.46.030(3)(b). Although the applicant has reduced the size of



these lots, the Planning Director was justified in allowing for the smaller lots because the public health and safety can be maintained while preserving the integrity of the site and eliminating any environmental damages. The requirements of this ordinance must be satisfied prior to any construction of the subdivision.

11. The Hearing Examiner of the City of Mukilteo has no jurisdictional authority to determine the rights of the parties to easement and maintenance agreement for a storm drainage pipeline to be installed on County Parklands (Chaussee v. Snohomish County, 38 Wn.App. 630). Resolution of this issue is mandatory before Divisions A and D of the proposed subdivision can be developed.

12. The PRD standards for development as set forth in the SCC 18.51.050 have been reviewed. The proposal is consistent with these standards and the property can be developed to ensure a large scale development with a variety of housing types and related uses that accommodate the diversity of the growing community.

13. Adequate provisions have been for the mitigation of any impacts to schools, parks and recreation facilities, and roads.

14. The proposal is consistent with the provisions of the Paine Field Comprehensive Plan area. It creates high quality urban residential communities which will be sensitive and compatible with surrounding physical environments.

15. Pursuant to Ordinance No. 736 the application was also reviewed under the MMC Title 16 Chapter 12. The proposal satisfies the procedures and processes for preliminary plats as set forth in MMC 16.12.010(11).

16. Adequate open space will be available within the site. With the open space and native growth protection areas and the parks that will be developed on site, the community will have additional usable recreational areas.

17. Conditions as imposed are reasonable and will allow the property to be developed in a manner that will be consistent with other properties in the area and the zoning and Comprehensive Plan designations of the subject property.

18. The environmental review of the subject property has been done pursuant to the SEPA and MMC 17.84.170. Issues raised by the parties at the public hearing, including those issues relating to storm drainage, aesthetics, construction noise, road impacts, and sewage treatment impacts, have been reviewed by the City and decided by the City Council.

19. The applicant is under no responsibility to make improvements to Scenic Drive or 64th Avenue West. The development of the site will not impact these streets and no impact is directly related to the applicant (Hillis Homes v. Snohomish County, 97 Wn.2d 804).

20. The setbacks along Scenic Drive shall be as agreed to by the applicant and the City. The applicant is under no

responsibility to setback the landscaping. This is an issue of aesthetics which the City Council has adequately addressed in the SEPA appeal.

#### RECOMMENDATION

Based upon the requirements and authority as set forth in MMC 16.12.010D(3) it is hereby recommended by the Hearing Examiner of the City of Mukilteo to the City Council of the City of Mukilteo that the preliminary plat of One Club House Lane Division A-E (Sector 17, Harbour Pointe) for 190 lots to be developed with detached single family residences located west of Harbour Pointe Boulevard and east of the WindandTide subdivision in Snohomish County be approved subject to the conditions listed below. The basis of this approval is set forth in the Findings of Facts and Conclusions of Law.

#### CONDITIONS

1. The preliminary plat map received June 30, 1993, shall be the approved plat configuration; changes to the approved plat are restricted by SCC 19.20.020(1).
2. The developer shall fully comply with the procedural and approval process found in MMC 16.12, as in accordance with Mukilteo Ordinance No. 736 and the substantive requirements of Snohomish County Code as adopted by the City of Mukilteo in Ordinance No. 690, 691 and 697.
3. The developer shall fully comply with all applicable requirements of the Harbour Pointe Master Plan contract, Sector

17 approval and division of development approval.

4. Pursuant to the Paine Field Area Comprehensive Plan, no single family residences shall be located within an area that has an airport noise level exceeding 65 Ldn.

5. Preliminary plat approval shall be effective for a maximum time period of three (3) years upon which time a final plat which meets all conditions of the preliminary plat approval must be submitted, in accordance with MMC 16.12.010.C(16).

6. Recreational facilities for the project shall be established in accordance with the Open Space and Recreation Facilities Plan and the preliminary plat map and division of development application submittal information. The proponent shall develop and complete the recreation facilities prior to occupancy of the last 100 housing units in the proposed plat. In any event, the Open Space and Recreation Facilities Plan shall retain at least 4 acres of open space.

7. A minimum of 25% of the conifer trees, where the trunk is over 8 inches in diameter 3 feet above the ground, shall be retained on each lot in the plat or an 8 foot tall Northwest native conifer shall be planted to replace every such tree where removal cannot be avoided; a maximum of four replacement trees are required to satisfy this requirement. In any event there shall be a minimum of four Northwest native conifer trees remaining on each lot. A note to this effect shall be placed

upon the final plat map. The applicant is encouraged to complete landscaping, but in order to protect it during construction, this condition must be accomplished with final plat approval.

8. With the exception of the recreation areas and private roads identified on the plat map, all open space areas (tracts) shall remain as Native Growth Protection Areas (NGPAs) and shall remain in a substantially natural state. With the exception of selective thinning, clearing and grading, as shown on Sheet No. 4 of 6, no clearing, grading, filling, building construction or placement, fence construction, or road construction of any kind shall occur within these areas; provided that underground utility lines and drainage discharge swales may cross such areas utilizing the shortest alignment possible, if and only if, no feasible alignment is available which would avoid such a crossing. Removal of vegetation by the property owner shall be limited to that which is diseased or hazardous. Plans for selected thinning shall be approved by the Planning Department. A note to this effect shall be placed upon the final plat map.

9. The applicant shall submit detailed clearing and grading and drainage plans, in accordance with SCC Title 25, Grading and Drainage to the Community Development Department for review and approval prior to any construction activities.

10. Prior to any site disturbance or the issuance of any development permits for the project, a clearing plan for the recreational facilities identified on the Open Space and

Recreation Facilities Plan and the preliminary plat map shall be submitted to the Planning Department for approval.

11. Prior to the start of any construction activities and until such a time as the required drainage improvements are fully operational, siltation and other erosion control measures shall be employed as necessary to reduce and/or control erosion or other adverse impacts to the property as well as to ensure appropriate on-site and off-site water quality control. Typical control measures include but are not limited to the following: filter fabric fencing; placement of slope protection materials such as straw mulch other matting; seasonal constraints on construction activities; and/or temporary storm drainage systems.

12. All grading in the critical areas near steep slopes shall be monitored by a qualified engineer to ensure proper implementation of the erosion/siltation control devices, and the recommendations of applicable geotechnical reports.

13. All required water service improvements shall be installed prior to final plat approval for each division and required easements shall be provided in accordance with Alderwood Water District standards. All easements shall be shown on the face of the final plat.

14. The applicant shall install fire hydrants as required by Alderwood Water District. One (1) blue, square (Type II) raised grade marker shall be installed in the roadway to indicate any fire hydrant location. It should be placed directly across

from the hydrant location off-set one (1) foot from the roadway center to the side of the hydrant.

15. All required sewer improvements shall be designed to Alderwood Water District standards and installed prior to final plat approval for each division.

16. All required storm drainage improvements shall be installed prior to final plat approval for each of the divisions. All erosion control facilities as deemed necessary shall be in place as directed by the City Engineer or Building Official. A Homeowners Association or covenant/maintenance agreement subject to approval by the City Engineer shall be created to maintain all private drainage facilities in the subdivision that are not within the public right-of-way or public drainage easement and the property owners shall permit the City, in emergency situations, to enter any of the lots in order to make necessary repairs to storm drainage improvements.

A note shall be placed on the final plat as follows: "All drainage easements shall be denoted as private if the drainage line contained within is smaller than 12" in diameter. All private easements shall be maintained by either the individual homeowners, the Homeowner's Association or a combination thereof. All easements containing storm drainage lines 12" and larger shall be designated as public drainage easements. All drainage facilities located within public rights-of-way and public drainage easements shall be dedicated to the public and

maintained by the City.

17. The development shall comply with all applicable drainage fee ordinances of the City of Mukilteo.

18. All storm drainage easements for installation and maintenance of drainage improvements shall be shown on the face of the final plat and a note shall be affixed to the plat describing the easement and its purpose.

19. All utilities shall be installed underground unless otherwise approved by the City Engineering Department.

20. The applicant shall relocate any utilities affected by the construction of the subdivision improvements at no cost to the City of Mukilteo.

21. All public right-of-way shall be dedicated and street improvements constructed to Snohomish County standards in effect on the date of preliminary plat application (July 23, 1993).

22. Private street maintenance agreements shall be recorded prior to final plat approval of Divisions C, D, and E in order to insure that the private streets are adequately maintained.

23. The applicant shall conceptually indicate all street light locations on the roadway construction plans for review and approval. Prior to placement of curbs or paving, whichever occurs first, the applicant shall obtain PUD final drawings which indicate all street light locations and submit them to the City for review and approval. Prior to final plat recording, the applicant shall furnish the City acceptable PUD documentation



that the street light installation has been contracted for and all fees required for fully installing the power distribution and lighting systems have been paid.

24. All landscaped areas in the public right-of-way shall be maintained by the developer and/or successor(s) and may be reduced or eliminated if deemed necessary for or detrimental to City road purposes. A note to this effect shall be placed on the face of the final plat.

25. Prior to plan review and inspection by the City Engineering staff, the applicant shall be required to provide a deposit to the City Clerk for the amount of the estimated plan review and inspection costs. The City Engineer shall provide the applicant with a written estimate of those costs. The applicant shall provide an additional deposit to the City Clerk as determined by the City Engineer if actual costs of plan review exceed the initial deposit. A deposit for estimated attorney's fees shall also be provided. The City shall refund any unused monies.

26. Prior to final plat approval for each division, the applicant shall submit a warranty surety to warrant all required improvements, installed, against defects in labor and material for a period of 24 months after acceptance of those improvements by the City. The warranty amount shall be equal to fifteen (15) percent of the costs of the improvements, as determined by the Public Works Director. The surety shall be submitted to and

approved by the City of Mukilteo prior to final plat approval of each division.

27. Prior to final plat approval for each division, the applicant shall pay for and install all required street signs. The exact location and type of all street and other signs related to the subdivision development shall be prepared by the applicant's engineer, on a drawing in triplicate. The ordering, costs and installation of all signs associated with the development shall be the responsibility of the applicant. All sign proposals shall be subject to review and approval by the City Engineer. All approved street signs shall be installed prior to the final construction inspection of each division by the City of Mukilteo.

28. All conditions imposed as part of the MDNS issued for this project on October 13, 1993. The conditions are as follows:

- a. Mukilteo School District No. 6 has identified an impact on school resources as a direct effect of new residential development within the District's boundaries. As a result, the applicant shall adhere to the provisions of Snohomish County Title 26C. Since the application became vested on July 23, 1993, the applicant shall pay \$2,305.22 per each new lot created to Mukilteo School District No. 6 for a total of \$437,991.80. The applicant shall pay the required mitigation fee to the School District prior to final plat approval of each division, and a copy of the School

District's receipt of funds shall be provided to the City of Mukilteo.

b. According to Ordinance 717 of the Mukilteo Municipal Code (Chapter 17.85), the impacts to park and recreation within the City shall be mitigated by the developer imposing these impacts. Therefore, the developer shall pay \$987.00 for each new lot created, or a total of \$187,530.00, to the City of Mukilteo as direct mitigation for the impact of 190 new single family residences that will be using the Mukilteo Park system. The developer shall sign a Voluntary Park Agreement on forms provided by the City and pay the mitigation fee prior to final plat approval of each division. As provided by Mukilteo Municipal Code Title 17, Subsection 17.85.080, the Planning Director may consider a request by the applicant for credit against the mitigation obligation. If the applicant opts to negotiate fees, a request for consideration of credit with supporting documents shall be submitted to the City in accordance with MMC Subsection 17.85.080.

(c.) Open Space Tract 999 of Division C and Open Space Tract 999 of Division E shall be set aside as Native Growth Protection Areas (NGPA) and shall be restricted as follows:

There shall be no clearing, excavation, fences or fill within a Native Growth Protection Area shown on the face of

the plat with the exception of required utility installation, road improvements, removal of dangerous trees, topping of trees, thinning of woodlands for the benefit of the woodlands as determined by a certified landscape architect or arborist and removal of obstructions on drainage courses.

d. Prior to commencement of any clearing or grading activities, the boundaries of all areas to be cleared shall be marked in the field with surveyor's tape and signs stating "no clearing or grading beyond this point without permission from the City of Mukilteo" shall be installed at 100 foot intervals. Field marked boundaries shall be consistent with the proposed clearing plan.

e. Prior to commencement of any clearing or grading activities, City Planning Department staff shall verify that proper on-site flagging and posting of signs has been completed in areas to be cleared.

f. All equipment to be used in clearing and grading operations shall be confined to those areas identified to be cleared.

g. The temporary storage of timber and clearing debris (stumps, branches, etc.) shall be confined to those areas identified to be cleared.

h. The top of bank and down slope areas as shown on the approved final grading plan for Lots 6-16 of Division C and

Lots 2-6 of Division A shall be delineated as Native Growth Protection Areas and shall have the same clearing restrictions as shown on Condition #d. In addition, building setbacks for these lots will be restricted in accordance with the Geotechnical Assessment Soils Reports prepared by Rittenhausen-Zeman and Associates, Inc., for Harbour Pointe Sectors 12 and 17 dated February 24, 1988, and February 9, 1988. A note to this effect shall be placed on the face of the final plat.

i. Minimum 30 foot deep buffers on the rear of Lots 9-13 of Division E shall be depicted on the face of the final plat map along with restrictive language prohibiting site disturbance other than minimal selective tree thinning.

j. The applicant shall comply with all NPDES (National Pollutant Discharge Elimination System) permit requirements as regulated through the Washington State Department of Ecology.

k. The geotechnical report for the lots to be developed under the PPM indicate the lots to be developable sites for single family residences, provided the precautions listed are implemented. All lots developed under the Professional Planning Method shall follow the recommendations of the soils reports prepared by Terra and Associates, Inc. Deviations from the approved soils reports shall be accompanied by new soils reports and site plans prepared in

accordance with the PPM standards listed in Snohomish County Code. The following lots shall be required to use the PPM: Lots 8-13, Division E; Lots 1-6, 10, and 17, Division C; Lots 40-45, Division D.

29. No burning shall be permitted. Effective September 1, 1992, residential yard waste fires and land clearing fires are banned within the City of Mukilteo.

30. A deposit shall be required for the final plat processing per Resolution 89-19 for legal/consultant fees incurred by the City in processing applications. Direct costs for larger projects vary, therefore the City Attorney shall provide an estimate for the review of the project. The applicant shall provide a deposit to the Community Development Department and as provided in Resolution 89-19 (See Attached Copy). The City shall refund any unused monies at the time of recording.

31. A deposit shall be required for the final plat processing in accordance with the current fee resolution for the Hearing Examiner's review of the final plat (See deposit schedule attachment as part of City's most current fee resolution). In cases where the specific application fee does not recover all outside costs attributable to the Hearing Examiner's services, the difference shall be identified by City staff and paid by the applicant to the Community Development Department. The City shall refund any unused monies at the time of recording.

32. The applicant shall have a licensed Civil Engineer

prepare and/or supervise the preparation of as-built civil drawing to be reviewed, approved and signed by the City Engineer upon satisfactory installation of the required public street and utility improvements. One reproducible and 3 signed blue-line drawings shall be submitted prior to final approval of the proposed project.

33. The applicant shall apply to the Snohomish County Auditor at 3000 Rockefeller Avenue, Everett, WA 98201-4060 for a plat name Reservation Certificate and furnish the City with a copy of the approved Reservation Certificate at the time of final plat submittal.

34. An underground tunnel or bridge shall be constructed (as an at-grade crossing shall not be permitted) to accommodate golfers and their carts crossing Club House Lane between the 14th and 15th fairways, unless the developer can demonstrate to the Planning Department and the Public Works Director that adequate site distance can be obtained in the plat design for an at-grade crossing at that location.

35. At-grade crossing shall be permitted on 128th Street SW (between Fairways No. 15 and 16).

36. Plans for construction of all golf course crossings shall be subject to submittal to and approval by the Public Works Director during construction plan approval and prior to the initiation of road construction.

37. Tract 996, in Division E, as depicted on the

preliminary plat map, shall be designated as only for emergency vehicle access and pedestrian traffic. Ownership and maintenance of this tract shall be by the Sector 17 Homeowner's Association. The tract shall contain, at the western end, a normally locked vehicle gate to be opened only by emergency or emergency training crews. The Mukilteo Fire Department may advise the Mukilteo Department of Public Works as to any design requirements they may feel appropriate for the driving surface and locked vehicle gate. Also to be located at the western end of the tract, is to be an open pedestrian gate primarily intended for the potential passage of school children. Mukilteo School District No. 6 may advise the Mukilteo Department of Public Works as to any special design requirements they may feel appropriate for the permanently open pedestrian gate. Sole approval authority for these gates shall reside with the Mukilteo Department of Public Works. A note shall be placed on the final plat containing this tract designating it as "Tract 996, subject to a non-exclusive easement for emergency vehicle access and pedestrian access, in Division E."

38. No permitted access from any lot in this subdivision shall be permitted to 64th Avenue West. All lots shall take vehicular access from interior plat roads. A note to this effect shall be placed on the final plat.

39. Surface water run-off from streets shall be collected by the storm drainage system and directed to the existing storm



water retention/detention facilities located in Sectors 12 and 17. Surface water run-off from driveways and roofs, where feasible, shall be collected by the storm drainage system and directed to the existing storm water retention/detention facilities located in Sectors 12 and 17. A note to this effect shall be placed on the final plat.

40. All construction activity shall be limited to those working hours per the City of Mukilteo Codes (7:00 a.m. - 10:00 p.m., weekdays and 8:00 a.m. - 10:00 p.m., weekends).

41. In accordance with SCC Title 13, Roads and Bridges, the Director of Public Works shall reserve the right to require the applicant to provide a maintenance bond, if he concludes that there may be damage done to the right-of-way, in this case, 64th Avenue West (Snohomish County). Said deposit shall represent an amount determined to be necessary to adequately protect such right-of-way, to cover the costs of restoration and repair of such anticipated damages and also approved by the Director of Snohomish County Public Works Department. In doing so, the Public Works Director or his designee shall, prior to the commencement of any construction activities, photograph the roadway conditions in order to establish a photographic catalogue of the pre-existing conditions.

42. Access to Divisions A, B, C, D and E in Sector 17 from 64th Avenue West is not anticipated for purposes of plat and home

9609270118

041

VOL. 3215 MAR 10 79

construction, but will be permitted for the limited purposes of hauling of equipment and materials, if no other reasonable access is available. Upon completion of plat and home construction, there shall be no vehicular access to any divisions of the plat from 64th Avenue West, except for the following limited purposes:

a. Emergency access as provided in Condition 37, above; and

b. Temporary access for purposes of maintaining a storm water detention vault, which temporary access shall terminate upon approval and recording of the final plat for Division D, Sector 17.

43. Temporary access from 64th Avenue West will be permitted for purposes of construction of sanitary sewer and storm water sewer systems that serve the plat and that are located near or on proposed Tract 997 in Division D, County of City park land or Sector 21. To the maximum extent feasible, this construction access shall be utilized only during the major construction period, consisting of a continuous 60 to 90 day period occurring between April 1 and November 1 of the year in which the construction occurs. Access will be permitted at other times, before and after the major construction period, to the extent reasonably necessary to prepare, maintain, inspect or repair the installations.

44. Lozier Homes Corporation shall institute a series of measures designed to minimize aesthetic impacts between the

9609270118

042

VOL. 3215 PAGE 1080

WindandTide and One Club House Lane subdivisions, as described in the following three sub-conditions.

a. Lozier Homes Corporation shall construct a wooden fence, 6 feet in height, along those rear lot lines of One Club House Lane bordering 64th Avenue West, including those lots (15-19, Division E) abutting Tract 998, to be completed no later than the date of construction for all homes in Division D and E, Sector 17, is completed. The fence shall be maintained by individual lot owners pursuant to standards established by the homeowners' association and the applicable Covenants, Conditions and Restrictions of One Club House Lane.

b. Lozier Homes Corporation, as the Declarant, shall amend the Architectural Guidelines of the One Club House Lane Covenants, Conditions and Restrictions, to require a rear yard setback for home construction unless an exception is granted by the Architectural Control Committee due to lot configuration making the setback impracticable or unless prohibited by code. The setback shall measure an average of 15 feet from the Easterly right-of-way of 64th Avenue West. The setback requirement shall apply to all lots immediately adjacent to and bordering 64th Avenue West, but shall not apply to Lots 15, 16, 17, and 19 of Division E.

c. Lozier Homes Corporation shall make reasonable efforts to preserve existing healthy conifer trees of at least 3 inches

9609270118

043

VOL. 3215 PAGE 1081

in diameter at breast height that are located within 10 feet of the Easterly right-of-way line of 64th Avenue West ("ten foot tree buffer"). In doing so, Lozier Homes Corporation is not required to exceed the "four tree per lot" standard described below. The ten foot tree buffer shall not apply to lots that are not directly adjacent to the Easterly right-of-way of 64th Avenue West. This condition shall not prevent the removal of shrubs and vegetation or deciduous trees. This condition shall not prevent the removal of any trees reasonably necessary for clearing or grading associated with fence construction, surface runoff control, lot contouring or utility construction. In any event, Lozier Homes Corporation will ensure that, upon completion of construction, each lot shall contain four conifer trees, either through preservation of existing trees, planting of new trees or a combination of both preservation and planting. Lozier Homes Corporation shall make reasonable efforts to locate these four trees within the ten foot buffer area described above.

45. Tract 998 (Within Division E), as depicted on the preliminary plat map, shall be designated as a private road for use by Lots 40 and 41 of WindandTide. There shall be no access, vehicular or otherwise, from Lots 15-19, Division E, of the proposed plat. The following note shall be placed on the final plat: "Tract 998, Division E, Private Ownership, shall be

conveyed by quit claim deed to the owners of lots 40 and 41 of WindandTide after tah recording of Division E. This tract shall be for the exclusive use of ingress, egress and utilities serving said lots 40 and 41. No access from any Division E lots shall be allowed. If the quit claim deed is not accepted by the owners of lots 40 and 41, the tract shall remain in the ownership of other Sector 17 Homeowner's Association, who may convey ownership to the abutting Sector 17 lots.

DATED this 11 day of February, 1994.

  
JAMES M. DRISCOLL  
Hearing Examiner

9609270118

045

9609270118 (9)  
VOL. 3215 PAGE 1083

ADDENDUM FOR THE MITIGATED  
DETERMINATION OF NON-SIGNIFICANCE  
ONE CLUB HOUSE LAND/DIVISIONS A-E

As Issued October 11, 1993

Addendum to be issued by the City of Mukilteo. An addendum may be used to add analyses or information about a proposal that does not substantially change the analysis of significant impacts and alternative in the existing environmental document.

Proposed Action: A revision to the plat of One Club House Lane, Division C and D in order to use the optional standards for Planned Residential Developments (PRD's). Under the optional PRD standards, the plat would be revised to allow 55-foot front lot widths within Division C instead of the 60-foot minimum front lot width approved for all divisions of the plat. In addition, the revision would shift the location of four lots from the west side of the 14th fairway to the east side in Divisions C and D.

Location: The site is located westerly of Harbour Pointe Boulevard and also westerly of the previously recorded Sector 17 divisions of One Club House Land 1, 2 and 3, and easterly of the Snohomish County development of WindandTide. The proposal comprises a portion of the West half of Section 28 and the East half of Section 29, all located in Township 28 North, Range 4 East W.M., Snohomish County, Washington.

Zoning: The site is zoned Residential 8,400, a County designation which the City of Mukilteo adopted as part of the annexation of the Harbour Pointe area, as a component of the Possession Shores contract rezone and concomitant agreement.

Size: The site (Division C and the first three (3) lots of Division D) is approximately 13.09 acres.

Exponent: Lozier Homes Corporation  
1203-114th Avenue SE  
Bellevue, WA 98004

Contact: Don Miller  
G.W.C. Land Development Consulting  
8888-45th Place West  
Mukilteo, WA 98275

0609270118 046

VOL. 3215 PAGE 1084

**Lead Agency:** City of Mukilteo  
Planning Department  
4480 Chennault Beach Road  
Mukilteo, WA 98275

**Project Known As:** One Club House Lane Divisions C and a portion of Division D

The project as proposed includes the reduction in the width of the front lot lines of the Plat of One Club House Lane Division C and portion of Division D, from 60 feet to 55 feet as allowed by Snohomish County Code Section 18.51.055, Optional PRD Standards. The amendment does not substantially affect the conditions of approval or the conditions listed in the environmental determination.

All Native Growth Protection Areas, Open Spaces and all areas requiring lot development according to the Professional Planning Method according to the previously approved preliminary plat will be unaffected by the proposed plat amendment. However, due to the lot configuration, the lot sequencing next to those protected areas will be slightly different.

Therefore:

1. The top of bank and downslope areas (condition number 8 of the MDNS) shall affect lots 6-15 of Division C, as shown on the revised plat maps dated October 23, 1995.
2. Lots 1-6, 10, 15 and 17 of Division C (plat map dated October 23, 1995) shall be designed and built according to the professionally planned method.
3. Open space tracts 997 and 999 shall be retained as shown on the face of the revised plat map dated October 23, 1995.

All conditions of the preliminary plat approval issued on March 7, 1994 shall be conditions of the plat amendment. The addendum has been provided to avoid uncertainty as to which lots are affected by the Native Growth Protection Area, Top of Bank grading limitations, Open Space Tracts and PFH's.

**DETERMINATION:** THE CLARIFIED PROPOSAL IS SUFFICIENTLY SIMILAR TO THE ORIGINAL PROJECT TO RELY ON THE MDNS ISSUED BY THE CITY OF MUKILTEO ON OCTOBER 11, 1993. THE ENVIRONMENTAL IMPACTS OF PLAT CONFIGURATION DUE TO THE REVISED FRONT LOT LINES HAVE BEEN ADEQUATELY ADDRESSED. THIS DETERMINATION RELIES ON PERFORMANCE OF THE CONDITIONS IN THE ORIGINAL MDNS.



This October 27, 1995 addendum does not substantially change the analysis of the significant impacts if the conditions of the prior MDNS issued by the City of Mukilteo are met.

**PLEASE NOTE:**

This addendum is issued under WAC 197-11-600 (4)(c) and WAC 197-11-625. This decision was made after review by the City of Mukilteo of an existing environmental document, on site inspection, and other information on file with this agency. This information is available for public review upon request. An addendum does not require circulation or a comment period.

Responsible Official: Patricia Love  
Associate Planner

Date: 11/1/95

Signature: *P. Love*  
*Richard A. Bely*

PL:pgi/plng/forms:och11026  
(formatted 11/1/95)

0609270118

048

VOL 3215 PAGE 1086



SUPPLEMENTARY DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
ONE CLUB HOUSE LANE SOUTH  
DIVISION 9

THIS SUPPLEMENTARY DECLARATION is made this 24<sup>th</sup> day of SEPT. 1996, by LOZIER HOMES CORPORATION, a Washington corporation ("Declarant").

A. Declarant is the owner and developer of that certain real property situated in the City of Mukilteo, Snohomish County, Washington, commonly known as One Club House Lane, Division 9, which real property is more particularly described on Exhibit A, attached hereto and incorporated herein by this reference. Declarant is also the Declarant in that certain Declaration of Covenants, Conditions and Restrictions for adjacent property known as One Club House Lane South, as recorded under Snohomish County Auditor's No. 9301250639 and as amended under Snohomish County Auditor's No. 9589228411 (together the "Declaration").

B. Pursuant to Section 9.1 of the Declaration, Declarant as the owner of One Club House Lane, Division 9, has the unilateral right to subject such property to the provisions of the Declaration and the jurisdiction of the Association, as defined therein, by recording a Supplementary Declaration describing such property. Pursuant to such Section 9.1, Declarant may unilaterally amend the Declaration as it applies to the property being annexed, in order to reflect the different character of such property.

C. In order to comply with certain provisions of preliminary plat approval of One Club House Lane Divisions A-E (Sector 17, Harbour Pointe) imposed by the City of Mukilteo, as such conditions have been construed by the City, Declarant desires to amend the Declaration, as the Declaration applies to One Club House Lane, Division 9, as requested by the City and as set forth herein.

NOW, THEREFORE, in accordance with the Declaration, Declarant hereby covenants and declares that One Club House Lane, Division 9, as described on Exhibit A, is hereby subjected to all of the covenants, conditions and restrictions of the Declaration and to the jurisdiction of the Association as defined therein; provided, however, that as applied only to One Club Lane, Division 9, the Declaration is hereby amended as follows:

1. Amendment of Definitions: Article 1, Section 1.1, of the Declaration is hereby amended by the addition of a new subsection 1.1.19, as follows:

1.1.19 "City" means the City of Mukilteo, a municipal corporation organized and existing under the laws of the State of Washington, acting by and through its duly authorized officials, employees, agents, contractors, and subcontractors.

2. Amendment of Maintenance Provisions: Article 5 of the Declaration is hereby amended by the addition of a new Section 5.8, as follows:

**5.8 Determination of Need for Maintenance or Repair.** The City shall have the right, but not the obligation, to inspect, determine the need to maintain or repair, or require the Association to maintain or repair, any of the landscaping, utilities, private roadways, or other facilities that are Common Property within One Club House Lane, Division 9, when the City determines in its reasonable discretion that the same is necessary in the interest of public health and safety. Declarant, each Owner, and the Association, understand and agree that the City has no obligation to inspect, determine the need to maintain or repair, or require the Association to maintain or repair any such items, and that the City's failure to do so does not create any liability on the City's part or relieve Declarant, any Owner, or the Association, of their respective obligations for maintenance and repair under this Declaration.

3. Amendment of Easement of Entry. Article 11, Section 11.3 of the Declaration is hereby amended by the addition of the following at the end of Section 11.3:

In addition to the Board's right of entry as provided in this Section 11.3, the City shall have the right, but not the obligation, to enter upon any property within One Club House Lane, Division 9, in emergency situations, in order to make necessary repairs to storm drainage improvements.

4. Amendment of Enforcement Provisions. Article 12, Section 12.1, of the Declaration is hereby amended by the addition of the following at the end of Section 12.1

The City is expressly intended to be a beneficiary of the provisions of Article 5, Section 6.32, and Sections 11.2, 11.3, and 11.4 of this Declaration. The City shall have the right, but not the obligation to enforce any and all of such provisions as applied to One Club House Lane, Division 9, should the City determine in its reasonable discretion that such enforcement is necessary to protect the public health, safety, or welfare, or to ensure that conditions of plat approval remain in full force and effect in One Club House Lane, Division 9.

5. Amendment of Provision on Amendments. Article 12, Section 12.4 of the Declaration is hereby amended by the addition of the following subsection 12.4.3:

The provisions of Article 5, Section 6.32, and Sections 11.2, 11.3, and 11.4 of this Declaration are expressly intended to benefit the City. Those provisions are imposed by Declarant in order to comply with conditions imposed by the City on the Plat of One Club House Lane Division A-B (Section 17, Harbour Pointe), to which this Declaration applies. As applied to One Club House Lane, Division 9, neither this subsection 12.4.3, nor Article 5 or Sections 6.32, 11.2, 11.3 or 11.4, may be amended or revoked without the express written consent of the City.

6. Remainder of Declaration Applies. Except as specifically modified herein, all remaining terms, conditions, and provisions of the Declaration shall apply to One Club House Lane, Division 9, as the same are set forth in the Declaration, or as the same may hereafter be amended.

EXECUTED the day and year first above written.

**DECLARANT:**

LOZIER HOMES CORPORATION, a  
Washington corporation

By 

Its PRESIDENT  
Michael D. Levy  
President

SUBSCRIBED AND SWORN TO

PROPERTY SUBJECT TO

BY

THIS SUPPLEMENTARY

DESCRIPTIONS OF SECTIONS 28 AND 29 TOWNSHIP 24 NORTH  
RANGE 4 EAST 10 M. IN SNOHOMISH COUNTY, WASHINGTON  
PARTICULARLY DESCRIBED AS FOLLOWS

960 97 10 11

ONE CLIFF ROUSE LANE DIVISION 9, 10 AND 11  
SECTION NO. 28  
PAGES RECORDS OF SNOHOMISH COUNTY  
WASHER, T. W.

**EXHIBIT A**

**PROPERTY SUBJECTED TO THE DECLARATION  
BY  
THIS SUPPLEMENTARY DECLARATION**

**THOSE PORTIONS OF SECTIONS 28 AND 29, TOWNSHIP 28 NORTH,  
RANGE 4 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:**

**9609275003**

**ONE CLUB HOUSE LANE DIVISION 9, AS RECORDED UNDER  
RECORDING NO. \_\_\_\_\_, VOLUME \_\_\_\_\_ OF PLATS,  
PAGES \_\_\_\_\_, RECORDS OF SNOHOMISH COUNTY,  
WASHINGTON.**

**9609270118**

**053**

**VDL. 3215 PAGE 1091**



CHICAGO TITLE INSURANCE COMPANY  
3030 BOTT AVENUE  
EVERETT, WASHINGTON 98201

AMENDED REPORT NO. 1

Order No: 370766

FLAT CERTIFICATE

Certificate for Filing Proposed Plat:

In the matter of the plat submitted for our approval, this Company has examined the records of the County Auditor and County Clerk of SPOKANE County, Washington, and the records of the Clerk of the United States Court holding terms in said County, and from such examination hereby certifies that the title to the following described land situate in said SPOKANE County, to-wit:

SEE SCHEDULE A (NEXT PAGE)

VESTED IN:

[REDACTED]

RECEIVED  
AUG 01 1996

CITY OF MOUNTAIN VIEW

EXCEPTIONS:

SEE SCHEDULE B ATTACHED

CHARGE: \$200.00  
TAX: \$15.80

Records examined to JULY 29, 1996 at 8:00 AM

CHICAGO TITLE INSURANCE COMPANY

By Ch. Marshall

CHARLEY MARSHALL  
Title Officer  
(206) 259-1888

9609270118

VOL. 3215 PAGE 1092

054

PLACER, MOUNTAIN VIEW

Order No: 370766

FLAT CERTIFICATE  
SCHEDULE A

(Continued)

LEGAL DESCRIPTION

PARCEL A:

LEGAL DESCRIPTION FOR ONE CLUBHOUSE LANE, DIVISION C:

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 29 AND THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 28 NORTH, RANGE 4 EAST, W.M., IN SNOBOMISH COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY OF CLUB HOUSE LANE, SAID POINT BEING THE COMMON CORNER OF THE PLATS OF ONE CLUB HOUSE LANE, DIVISION 6, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 57 OF PLATS, PAGES 258 THROUGH 270, INCLUSIVE, AND ONE CLUB HOUSE LANE, DIVISION 8, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 58 OF PLATS, PAGES 228 THROUGH 229, INCLUSIVE, RECORDS OF SNOBOMISH COUNTY, WASHINGTON,

THENCE ALONG THE NORTHWESTERLY BOUNDARY OF SAID PLAT OF ONE CLUB HOUSE LANE, DIVISION 8 OVER THE FOLLOWING 15 COURSES;

THENCE SOUTH 41°00'00" WEST FOR 83.30 FEET TO THE BEGINNING OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT;

THENCE WESTERLY, ALONG SAID CURVE, FOR 42.39 FEET WHILE CONSUMING A CENTRAL ANGLE OF 97°09'32";

THENCE SOUTH 48°09'32" WEST FOR 50.00 FEET;

THENCE SOUTH 41°50'28" EAST FOR 10.69 FEET TO THE BEGINNING OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT;

THENCE SOUTHERLY, ALONG SAID CURVE, FOR 38.04 FEET WHILE CONSUMING A CENTRAL ANGLE OF 87°11'01" TO THE BEGINNING OF A 670.00 FOOT RADIUS CURVE TO THE RIGHT;

THENCE SOUTHWESTERLY, ALONG SAID CURVE, FOR 76.10 FEET WHILE CONSUMING A CENTRAL ANGLE OF 6°30'27"

THENCE NORTH 41°55'55" WEST FOR 109.21 FEET;

THENCE SOUTH 53°44'07" WEST FOR 60.97 FEET;

THENCE SOUTH 60°14'42" WEST FOR 75.45 FEET;

THENCE SOUTH 70°20'00" WEST FOR 327.98 FEET TO A POINT ON A 150.00 FOOT RADIUS CURVE TO THE RIGHT HAVING A RADIUS POINT WHICH BEARS SOUTH 62°59'00" WEST FROM SAID POINT;

THENCE SOUTHEASTERLY, ALONG SAID CURVE, FOR 19.24 FEET WHILE CONSUMING A CENTRAL ANGLE OF 7°21'00";

THENCE SOUTH 19°40'00" EAST FOR 53.08 TO THE BEGINNING OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT;

THENCE SOUTHERLY AND SOUTHWESTERLY, ALONG SAID CURVE, FOR 40.67 FEET WHILE CONSUMING A CENTRAL ANGLE OF 93°13'00";

THENCE SOUTH 73°33'00" WEST FOR 28.52 FEET TO THE BEGINNING OF A 287.39 FOOT RADIUS CURVE TO THE LEFT;

THENCE SOUTHWESTERLY, ALONG SAID CURVE, FOR 15.14 FEET WHILE CONSUMING A CENTRAL ANGLE OF 3°01'07";

THENCE NORTH 19°40'00" WEST FOR 100.00 FEET;

SEE NEXT PAGE

9609270118

055

VOL. 3215 PAGE 1093

Policy No: 370766

**SCHEDULE A**  
(Continued)

**LEGAL DESCRIPTION**

TRENCE SOUTH 64°30'46" WEST FOR 174.90 FEET;  
 TRENCE NORTH 6°52'46" EAST FOR 804.30 FEET;  
 TRENCE NORTH 4°41'09" WEST FOR 122.41 FEET;  
 TRENCE NORTH 13°50'48" EAST FOR 146.25 FEET;  
 TRENCE SOUTH 69°27'23" EAST FOR 279.51 FEET;  
 TRENCE NORTH 43°00'00" EAST FOR 30.00 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY OF  
 BAYVIEW DRIVE AND THE SOUTHWESTERLY BOUNDARY OF SAID FLAT OF ONE CLUB HOUSE LANE,  
 DIVISION 6;  
 TRENCE ALONG THE SOUTHWESTERLY BOUNDARY OF SAID DIVISION 6 OVER THE FOLLOWING 4  
 COURSES;  
 TRENCE SOUTH 47°00'00" EAST FOR 480.00 FEET;  
 TRENCE SOUTH 43°00'00" WEST FOR 90.00 FEET;  
 TRENCE SOUTH 42°01'49" EAST FOR 115.43 FEET;  
 TRENCE SOUTH 47°00'00" EAST FOR 208.49 FEET TO THE POINT OF BEGINNING;

SITUATE IN THE COUNTY OF SPOKANE, STATE OF WASHINGTON.

9609270118

056

VOL. 3215 PAGE 1094



## CHICAGO TITLE INSURANCE COMPANY

Order No: 370766

PLAT CERTIFICATE  
SCHEDULE B

This certificate does not insure against loss or damage by reason of the following exceptions:

## GENERAL EXCEPTIONS:

- A. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
- B. Rights or claims of parties in possession not shown by the public records.
- C. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.
- D. Easements or claims of easements not shown by the public records.
- E. Any lien, or right to lien, for contributions to employee benefit funds, or for state workers' compensation, or for services, labor, or material heretofore or hereafter furnished, all as imposed by law, and not shown by the public records.
- F. Liens under the Workmen's Compensation Act not shown by the public records.
- G. Any service, installation, connection, maintenance or construction charges for sewer, water, electricity or garbage removal.
- H. General taxes not now payable; matters relating to special assessments and special levies, if any, proceeding or in the same becoming a lien.
- I. Reservations or exceptions in patents or in Acts authorizing the issuance thereof; Indian tribal codes or regulations, Indian treaty or aboriginal rights, including easements or equitable servitudes.
- J. Water rights, claims, or title to water.
- K. THIS REPORT IS ISSUED AND ACCEPTED UPON THE UNDERSTANDING THAT THE LIABILITY OF THE COMPANY SHALL NOT EXCEED ONE THOUSAND DOLLARS(\$1000.00).

9609270118

057

VOL. 3215 PAGE 1095

**PLAT CERTIFICATE  
SCHEDULE B**

Order No: 370766

(Continued)

**EXCEPTIONS**

1. NO SEARCH HAS BEEN MADE AS TO PROPERTY TAXES AND ASSESSMENTS. PROPERTY TAXES AND ASSESSMENTS WILL BE SEARCHED UPON REQUEST.

2. AGREEMENT AND THE TERMS AND CONDITIONS THEREOF:

BETWEEN:	ECC DEVELOPMENT, INC.
AND:	SNOBOMISH COUNTY, A MUNICIPAL CORPORATION
RECORDED:	SEPTEMBER 2, 1988
RECORDING NUMBER:	8809020118
REGARDING:	ROAD AGREEMENT

3. PROVISIONS OF "POSSESSION SHARES AGREEMENT" AND "CHEVRON AGREEMENT" RECORDED UNDER AUDITOR'S FILE NUMBERS 7808310138 AND 7808310140 RESPECTIVELY.

4. EXCEPTIONS AND RESERVATIONS CONTAINED IN DEED:

GRANTOR:	CHEVRON U.S.A. INC., A CALIFORNIA CORPORATION
RECORDING NUMBER:	7811300199

AS FOLLOWS:

EXCEPTING AND RESERVING TO GRANTOR, ITS SUCCESSORS AND ASSIGNS, ALL OIL, GAS AND HYDROCARBONS, GEOTHERMAL RESOURCES AS DEFINED IN SECTION 79.76.030, REVISED CODE OF WASHINGTON, AND ALL OTHER MINERALS; WHETHER SIMILAR TO THOSE HEREIN SPECIFIED OR NOT WITHIN OR THAT MAY BE PRODUCED FROM SAID REAL PROPERTY; PROVIDED, HOWEVER, THAT ALL RIGHTS AND INTEREST IN THE SURFACE OF SAID REAL PROPERTY ARE HEREBY CONVEYED TO GRANTEE, NO RIGHT OR INTEREST OF ANY KIND THEREIN, EXPRESS OR IMPLIED, BEING EXCEPTED OR RESERVED TO GRANTOR EXCEPT AS HEREINAFTER EXPRESSLY SET FORTH.

ALSO EXCEPTING AND RESERVING TO GRANTOR, ITS SUCCESSORS AND ASSIGNS, THE SOLE AND EXCLUSIVE RIGHT FROM TIME TO TIME TO DRILL AND MAINTAIN WELLS OR OTHER WORKS INTO OR THROUGH SAID REAL PROPERTY BELOW A DEPTH OF FIVE HUNDRED (500) FEET AND TO PRODUCE, INJECT, STORE AND REMOVE FROM OR THROUGH SUCH WELLS OR WORKS, OIL, GAS AND OTHER SUBSTANCES OF WHATEVER NATURE, INCLUDING THE RIGHT TO PERFORM ANY AND

9609270118

058

**PLAT CERTIFICATE  
SCHEDULE B  
(Continued)**

Order No.: 378766

ALL OPERATIONS DEEMED BY GRANTEE  
NECESSARY OR CONVENIENT FOR THE  
EXERCISE OF SUCH RIGHTS.

**5. AGREEMENT AND THE TERMS AND CONDITIONS THEREOF:**

**BETWEEN:**

BCE DEVELOPMENT INC., A DELAWARE  
CORPORATION, GOLF SWINGEST, INC., A  
WASHINGTON CORPORATION, HARBOUR POINTE  
GOLF ASSOCIATES, LP, A WASHINGTON  
LIMITED PARTNERSHIP

**AND:**

HARBOUR POINTE LIMITED PARTNERSHIP, A  
WASHINGTON LIMITED PARTNERSHIP  
AUGUST 23, 1989

**RECORDED:  
RECORDING NUMBER:  
REGARDING:**

8906230414  
COVENANTS, EASEMENTS AND OBLIGATIONS

**6. AGREEMENT AND THE TERMS AND CONDITIONS THEREOF:**

**BETWEEN:**

BCE DEVELOPMENT INC., A DELAWARE  
CORPORATION, HARBOUR POINTE LIMITED  
PARTNERSHIP, A WASHINGTON LIMITED  
PARTNERSHIP

**AND:**

LOSIER HOMES CORPORATION, A WASHINGTON  
CORPORATION

**RECORDED:  
RECORDING NUMBER:  
REGARDING:**

AUGUST 23, 1989  
8908230415  
SECTOR AGREEMENT

SAID AGREEMENT WAS AMENDED UNDER AUDITOR'S FILE NO. 9410240322.

**7. EASEMENT AND THE TERMS AND CONDITIONS THEREOF:**

**GRANTEE:  
PURPOSE:  
AREA AFFECTED:  
RECORDED:  
RECORDING NUMBER:**

ALLENWOOD WATER DISTRICT  
WATER SYSTEM  
PORTION AS DESCRIBED AND DELINEATED  
JULY 10, 1995  
9507100056

8. THE COMPANY'S LIABILITY FOR THIS REPORT IS LIMITED TO \$1,000.00. THIS  
REPORT IS BASED ON THE COMPANY'S PROPERTY RECORDS, AND NO LIABILITY IS  
ASSUMED FOR ITEMS MISINDEXED OR NOT INDEXED IN THE PUBLIC RECORDS, OR FOR  
MISTAKES WHICH WOULD BE DISCLOSED BY AN INQUIRY OF THE PARTIES IN

9809270118

059

**PLAT CERTIFICATE  
SCHEDULE B**

Order No: 370766

(Continued)

POSSESSION OR BY AN ACCURATE SURVEY OR INSPECTION OF THE PREMISES. THIS REPORT AND THE LEGAL DESCRIPTION GIVEN HEREIN ARE BASED UPON INFORMATION SUPPLIED BY THE APPLICANT AS TO THE LOCATION AND IDENTIFICATION OF THE PREMISES IN QUESTION, AND NO LIABILITY IS ASSUMED FOR DISCREPANCIES RESULTING THEREFROM. THIS REPORT DOES NOT REPRESENT EITHER A COMMITMENT TO INSURE TITLE, AN EXAMINATION OF, OR OPINION AS TO THE SUFFICIENCY OR EFFECT OF THE MATTERS SHOWN, OR AN OPINION AS TO THE MARKETABILITY OF TITLE TO THE SUBJECT PREMISES.

END OF SCHEDULE B

BRS/MM

0609270118

060

After recording mail to:  
Lozier Homes Corporation  
1203 - 114th Avenue S.E.  
Bellevue, WA. 98004

9301291149

'93 JAN 29 P4 50

DECLARATION OF EASEMENT

DEAN V. ANNE...  
SNOHOMISH COUNTY...  
DEPUTY...  
*Cher...  
...lligder*

Lozier Homes Corporation, a Washington Corporation, as current owner of the real property described below, hereby creates and grants to the One Club House Lane South Association, its successors and assigns, a 10 foot wide easement for the installation and maintenance of entry sign, monument, landscaping, ingress and egress, over, under, and across the following described property:

That portion of Lot 1, One Club House Lane, Division 1, according to the plat thereof recorded in Volume 52 of Plats, pages 223 through 226, Records of Snohomish County Washington, lying five feet on both sides of the following described center line:

Commencing at the front lot corner common to Lot 1 and Lot 2; thence northeasterly along the property line of Lot 1 which curves to the right having a radius of 325.00 feet thru a central angle of 8°13'30" an arc distance of 46.65 feet to a point of tangency; thence continuing along the property line of Lot 1 N.60°00'00"E. 3.90 feet; thence N.30°00'00"W. 5.00 feet to the true point of beginning; thence N.60°00'00"E. 25.00 feet to a point of curve; thence along said curve to the left, having a radius of 20 feet, thru a central angle of 87°56'30" an arc distance of 30.70 feet to a point of reverse curve; thence along said reverse curve to the right having a radius of 1372 feet thru a central angle of 1°02'38" an arc distance of 25.00 feet to the end of said center line which lies 5.00 feet southwesterly from the Harbour Pointe Boulevard R.O.W. line.

The cost of maintenance, repair, or reconstruction of improvements within the easement area necessitated by ordinary use and/or damage not the fault of the owners of Lot 1 shall be the responsibility of the One Club House Lane South Association. The cost of any repair and/or reconstruction of improvements necessitated by any damage to said improvements which is the fault of the owner of Lot 1 and which was not caused by ordinary use of said improvements shall be the sole responsibility of the owners of Lot 1.

The above described easement shall benefit and burden all the future owners, their heirs, successors, and assigns of said Lot 1, One Club House Lane, Division 1 as recorded in Volume 52 of Plats, pages 223 through 226, records of Snohomish County.

Granted this 27<sup>th</sup> day of JANUARY, 1993.

LOZIER HOMES CORPORATION

BY: *[Signature]*

TITLE: Michael D. Levy  
Vice President

This document is filed for record by FIRST AMERICAN TITLE INSURANCE CO. as an accommodation only. It has not been examined as to its execution or as to its effect upon the title.

FIRST AMERICAN TITLE

STATE OF WASHINGTON  
COUNTY OF King

On this 27th day of January, A.D. 1993, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn personally appeared Michael D. Levy to be known to be the Vice President of Lozier Homes Corporation, a Washington corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

Witness my hand and official seal hereto affixed the day and year in this certificate above written.

*[Signature]*  
Notary Public in and for the State of Washington, residing at Kent

My commission expires: 3-22-96

NO EXCISE TAX  
REQUIRED

FEB 01 1993

KIRKE SIEVERS, Snohomish County Notary  
By KIRKE SIEVERS



AFTER RECORDING, PLEASE MAIL TO:  
LOZIER HOMES CORPORATION '95 MAY 18 P2:20  
1203 114TH AVENUE SE  
BELLEVUE, WA 98004

CHICAGO TITLE INSURANCE COMPANY HAS PLACED  
THIS DOCUMENT OF RECORD AS A CUSTOMER  
COURTESY AND ACCEPTS NO LIABILITY FOR THE  
ACCURACY OR VALIDITY OF THE DOCUMENT.

SUB TERRITORY: IGERA...  
SNOHOMISH COUNTY

9505180276

Chicago Title Ins. Co.

RECORDED BY SNOHOMISH AUDITOR-BOB TERVILIGER, COUNTY AUDITOR

CA 27195

**DECLARATION OF TRAIL BASEMENT AND RESTRICTION**

Lozier Homes Corporation, a Washington corporation, as current owner of the real property described below, hereby creates and grants unto the One Club House Lane South Association, its successors and assigns, an easement and restriction for ingress, egress, installation and maintenance of a pedestrian trail over and across the following described property:

That portion of Lot 1, One Club House Lane, Div. 7, according to the plat thereof recorded in volume 58 of plats, pages 223-225, records of Snohomish County, Washington, more particularly described as follows:

Beginning at the rear lot corner, common to said Lot 1 and Tract 998, thence N.61° 53'40"E. along the rear lot line of said Lot 1 a distance of 40.00 feet; thence S.28°06'20"E. a distance of 10.00 feet; thence S.28°57'08"W. a distance of 54.43 feet to a point on the westerly lot line of said Lot 1; thence along the westerly lot line of said Lot 1, N.19°57'01"W. a distance of 40.00 feet to the point of beginning.

The One Club House Lane South Association is hereby granted the right to install and maintain a pedestrian trail in the easement area. The owner of said Lot 1 shall not build any structures upon the easement or alter the pedestrian trail without the written consent of the said Association. In the event the maintenance of the pedestrian trail requires disturbance of the easement area by the said Association, then it shall immediately restore the disturbed area to the condition it was immediately prior to disturbance.

The above described easement and restriction shall benefit and burden all future owners, their heirs, successors and assigns of said Lot 1 and the One Club House Lane South Association.

Granted this 17th day of May, 1995.

LOZIER HOMES CORPORATION

By: [Signature]  
Michael D. Levy, Vice President

**NO EXCISE TAX  
REQUIRED**

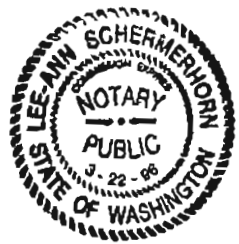
MAY 18 1995  
KIRKE SIEVERS, Snohomish County Treasurer  
By KIRKE SIEVERS

**STATE OF WASHINGTON, COUNTY OF SNOHOMISH**

On this 17th day of May, A.D. 1995, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Michael D. Levy to me known to be the Vice President of LOZIER HOMES CORPORATION, the Corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

[Signature]  
Notary Public in and for the State of  
Washington, residing at Kent

My commission expires 3-22-96



ED:TRAIL.doc - du

After Recording Mail to:  
Lozier Homes Corporation  
1203 114th Avenue S.E.  
Bellevue, WA. 98004

12-  
9801291150

ASSIGNMENT OF LANDSCAPING EASEMENT

Lozier Homes Corporation, the Grantee of a Landscaping Easement recorded under auditor's file number 9102260219, Volume 2416, pages 0912 through 0915, and amended under auditor's file number 9205140194, Volume 2572, page 1674 as attached hereto, hereby assigns its rights and obligations under said easements to One Club House Lane South Association.

This assignment is dated January 27, 1993.

LOZIER HOMES CORPORATION

BY: David W. Lozier, Jr.  
David W. Lozier, Jr., President

Accepted:  
ONE CLUB HOUSE LANE SOUTH ASSOCIATION

BY: Michael D. Levy  
Michael D. Levy, President

DEAN V. ...  
SNOHOMISH CO. ...  
93 JAN 29 P 4:50  
REC-920770  
C. P. ...

NO EXCISE TAX  
REQUIRED

FEB 0 1 1993

KIRKE SIEVERS, Snohomish County Treasurer  
By KIRKE SIEVERS

Granted this 27<sup>th</sup> day of January, 1993.

LOZIER HOMES CORPORATION

BY: David W. Lozier, Jr.  
TITLE: President

This document is filed for record by FIRST AMERICAN TITLE INSURANCE CO. as an accommodation only. It has not been extended as to its execution or as to its effect upon the title.

FIRST AMERICAN 2151625-3

STATE OF WASHINGTON )  
COUNTY OF King ) ss

On this 27th day of January, A.D. 1993, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn personally appeared David W. Lozier Jr to be known to be the President of Lozier Homes Corporation, a Washington corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

Witness my hand and official seal hereto affixed the day and year in this certificate above written.



Lee Ann Schermmerhorn  
Notary Public in and for the State of Washington, residing at Kent

My commission expires: 3-22-96



CLERK OF COUNTY COURTS, DEAN V. WILLIAMS, COUNTY AUDITOR

MAR 2 1991

AFTER RECORDING PLEASE RETURN TO: LOZIER HOMES CORPORATION  
1203 114TH AVENUE SE  
BELLEVUE, WA 98004  
NO EXCISE TAX  
REQUIRED

F-22755

LANDSCAPE EASEMENT

FEB 26 1991

KIRKE SHEPERS, Snohomish County Treasurer  
by *[Signature]*  
Deputy

9102260219

The Grantor(s) Harbour Pointe Limited Partnership, a Washington limited partnership, its heirs, successors and assigns, owners of the real property known as the "School Site" legally described on Exhibit A hereto, for and in consideration of benefits to be mutually received, grant and warrant to Lozier Homes Corporation, a Washington corporation, its heirs successors and assigns, the Grantee, an easement for ingress and egress for the installation maintenance of entry signs, fencing, landscaping, grading, rockeries, in accordance with the landscaping plan for 58th Avenue West dated March 14, 1990; over, across, in and upon the following described property:

The westerly and southerly 15 feet of the "School Site" property; Together with that portion lying northwesterly of the following described line; beginning at a point which lies 35 feet southerly of the south R.O.W. line of Harbour Pointe Blvd., and 15 feet easterly of the westerly property line of said "School Site"; thence northeasterly a distance of approximately 29 feet to a point which lies 15 feet southerly of the south R.O.W. line of Harbour Pointe Blvd., and 35 feet easterly of the westerly property line of said "School Site"; thence northeasterly a distance of 15 feet to the ending point of said described line. Said ending point being a point lying on the south R.O.W. line of Harbour Pointe Blvd. and lying 35 feet easterly of said westerly property line of the "School Site".

Notwithstanding the foregoing, the Owner of the "School Site" reserves the right to terminate any and all easement rights over the following described portion of the easement as they deem necessary to facilitate construction of school facilities. Provided that the buffer, fence, landscaping, and entry monument serve as a desirable buffer between the two land uses and would only be terminated if absolutely necessary at Owner's sole discretion.

That portion lying northwesterly of the following described line: beginning at a point which lies 35 feet southerly of the south R.O.W. line of Harbour Pointe Blvd., and 15 feet easterly of the westerly property line of said "School Site"; thence northeasterly a distance of approximately 29 feet to a point which lies 15 feet southerly of the south R.O.W. line of Harbour Pointe Blvd., and 35 feet easterly of the westerly property line of said "School Site"; thence northeasterly a distance of 15 feet to the ending point of said described line. Said ending point being a point lying on the south R.O.W. line of Harbour Pointe Blvd. and lying 35 feet easterly of said westerly property line of the "School Site".

VOL. 2681 PAGE 2361

The Grantor does hereby and the Grantee, by accepting and recording this Easement, mutually covenant and agree as follows:

~~9102260219~~  
9301291150

~~VOL. 2416 PAGE 0912~~

u-2

W-089005

THIS DOCUMENT WAS FILED FOR  
RECORDATION IN ACCORDANCE  
WITH THE REQUIREMENTS OF  
RCW 36.01.010 AS TO ITS EFFECT  
ON THE PUBLIC RECORDS.



1. The cost of installation of the improvements will be the sole responsibility of Grantee, and the cost of maintenance, repair, or reconstruction of improvements including ordinary wear and tear and damage by third parties, within the easement area shall be the responsibility of Grantee, its successors, and assigns, namely the future Homeowner's Association for Sector 17. Maintenance of the improvements shall commence immediately upon completion and be ongoing and shall be accomplished in a manner acceptable to the Owner of the School Site.
2. In the event of damage to landscape due to the direct action or negligence of Owner the cost of any repair and/or reconstruction of improvements necessitated by any damage (excluding ordinary wear and tear) to said improvements shall be the sole responsibility of the Owners of the "School Site".
3. In the event the Mukilteo School District #6 terminates its rights to purchase the "School Site", or if after Mukilteo School District #6 purchases the "School Site" it re-sells the "School Site" back to the Grantor then this easement shall automatically terminate and extinguish without further action by any of the parties to this easement.
4. Grantee shall not permit the creation of any lien in favor of any contractor, subcontractor, materialman, mechanic, surveyor, architect or laborer, and Grantee hereby expressly agrees to indemnify and hold Grantor harmless against any damage or injury to either persons or property arising out of Grantee or Grantees agents', employees', or representatives' actions on the Property. Grantee agrees to repair any streets, utilities, other similar improvements and correct any disruption to adjacent Property which results from the action of Grantee or Grantees' agents. Notwithstanding the foregoing, in no event shall the indemnification set forth above apply to any damage or injury caused as a result of Grantor's sole or concurrent negligence.
5. This easement is subject to the right of the Grantor to the use and possession of the real property over which the above mentioned easement is granted, unto themselves, their heirs, successors, and/or assigns of the above-described real property, in any manner, PROVIDED that said use of the Grantor shall in no way interfere with the rights granted to said Grantee.

This document was filed for  
 recording with the Registrar  
 of Deeds in the County of  
 Snohomish, Washington as to  
 the interest therein to its effect

GRANTED this 13th day of February, 1991.

Harbour Pointe Limited Partnership

VOL. 2681 PAGE 2362

Signature of Grantor(s)/Property Owner(s)

Printed Name DENNIS VRABEK, PRESIDENT  
Bellek Corporation

DENNIS VRABEK, PRESIDENT  
Bellek Corporation  
General Partner

Title of Authorized Representative  
(If signing in a representative capacity  
on behalf of corporation).

9301291150

~~9102260310~~

VOL. ~~2416~~ PAGE ~~0913~~

ACKNOWLEDGMENT FOR REPRESENTATIVE OF CORPORATION, PARTNERSHIP, ETC.:

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SNOHOMISH )

I certify that I know or have satisfactory evidence that Tennis Vashek is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the President of Belltek Corporation to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: February 13, 1991



Jeanne L. Smith  
Signature of Notary  
Secretary  
Title  
My Appointment expires: 6/16/93

Said document(s) were filed for record by Title as accommodation only. It has not been examined as to proper execution or as to its effect upon title.

WED/js/#47/HP-19

VOL. 268 PAGE 2363

~~9102200219~~

9801291150

~~VOL. 2416 PAGE 0914~~

EXHIBIT A

Said document(s) were filed for record by Ticor Title as accommodation only. It has not been examined as to proper execution or as to its effect upon title.

88-8080  
10/8/80

HARBOUR POINTE SECTOR 17  
PROPOSED ELEMENTARY SCHOOL SITE

That portion of Tract "C" exempt segregation for BCE Development Inc. recorded in Volume 29, of Surveys page 230 records of Snohomish County Washington and under Auditors File No. 8908235003 records of said County described as follows:  
COMMENCING at point "K" as shown on said survey; said point being on the southwesterly margin of Harbour Pointe Blvd. and on the arc of a curve at a point from which the center lies N88°18'25"E 1367.00 feet distant; thence southeasterly along said margin and curve to the left through a central angle of 10°21'56" an arc length of 247.31 feet to the POINT OF BEGINNING; thence continuing along said margin and curve to the left through a central angle of 11°20'59" an arc length of 270.79 feet to the northwest corner of the plat of Waterford Park as recorded in Volume 48 of Plats, pages 263 through 268, Records of said county; thence S22°40'00"W along the west boundary of said plat 1,069.07 feet; thence N67°20'00"W 246.84 feet; thence N65°00'00"W 113.58 feet to the beginning of a curve to the right having a radius of 25.00 feet; thence northwesterly along said curve through a central angle of 90°00'00" an arc length of 39.27 feet to a point of tangency; thence N25°00'00"E 989.00 feet to the beginning of a curve to the right having a radius of 275.00 feet; thence northeasterly along said curve through a central angle of 36°00'00" an arc length of 167.99 feet to a point of tangency; thence N60°00'00"E 28.90 feet to the beginning of a curve to the right having a radius of 25.00 feet; thence northeasterly along said curve through a central angle of 87°58'29" an arc length of 38.37 feet to the POINT OF BEGINNING.

Containing 9.446 acres more or less.

WRITTEN BY CM 10-5-80 TICOR TITLE INSURANCE CO.

CHECKED BY JG 10-5-80

PROOFED BY JG CM

RECORDED

91 FEB 26 P 1 20

GROUP FOUR, INC.  
16030 Juanita-Woodinville Way N.E.  
Bellevue, WA 98011

JEAN V. WILLIAMS, REGISTERED  
SNOHOMISH COUNTY, WASH.

DEPUTY \_\_\_\_\_



10-9-80

VOL. 2681 PAGE 2364

9301291150

~~9102260219~~

*Linda Russell*

VOL. ~~2416~~ PAGE ~~0915~~

DEAN V. WILLIAMS, COUNTY CLERK

1203 114th Avenue SE  
Bellevue, WA 98004

MAY 15 1992

ADDITION TO LANDSCAPE EASEMENT

255140194

In addition to the property included in the landscape easement recorded under auditor's file number 9102260219, Volume 2416, pages 0912 through 0913, Records of Snohomish County, the following described property is added to the second paragraph of the first page:

Together with the following described property in the southwest corner of said school site: Beginning at a point which lies 15 feet northerly of the said school site south property line and 35 feet easterly of the easterly R.O.W. line of 57th Avenue West; thence N.65°00'00"W, 10.00 feet to the beginning of a curve to right having a radius of 10 feet; thence northwesterly along said curve through a central angle of 90°00'00" an arc length of 15.71 feet to a point of tangency; thence N. 25°00'00"E, 10.00 feet; thence S.20°00'00"E, 28.28 to the point of beginning.

Granted this 1<sup>st</sup> day of May, 1992.

Mukilteo School District #6

Norman K. Felix  
Signature of Grantor/Property Owner

Norman K. Felix  
Printed Name  
Director of Facilities Planning and Development  
FOR: MUKILTEO SCHOOL DISTRICT NO. 6

Title of Authorized Representative  
(If signing in a representative capacity  
on behalf of corporation)

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SNOHOMISH )

DEAN V. WILLIAMS, CLERK  
SNOHOMISH COUNTY, WASH.  
DEPUTY  
D. J. ...

FIRST AMERICAN TITLE CO.  
RECORDED  
32 MAY 14 AM 3:00

This document is filed for record by FIRST AMERICAN TITLE INSURANCE CO. as an accommodation only. It has not been examined as to its exactness or as to its effect upon the title.

I certify that I know or have satisfactory evidence that Norman K. Felix is the person who appeared before me, and said person acknowledged (that he/she) signed this instrument, on oath, stated that (he/she) was authorized to execute the instrument and acknowledged it as the authorized represent of Mukilteo School District to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: May 1, 1992

NO EXCISE TAX  
REQUIRED

MAY 14 1992

KIRKE SIEVERS, Snohomish County Treasurer  
By KIRKE SIEVERS

J. ...  
Signature of Notary  
Notary  
Title  
My Appointment expires March 1, 1995



VOL. 2681 PAGE 2365

~~VOL. 2572 PAGE 1074~~

9301291150